

THE STATE IN PEACE AND WAR

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THE STATE IN PEACE AND WAR

BY

JOHN WATSON, LL.D., LITT.D., D.D.

PROFESSOR OF MORAL PHILOSOPHY IN QUEEN'S UNIVERSITY,
KINGSTON, CANADA

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JAMES MACLEHOSE AND SONS

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BY ROBERT MACLEHOSE AND CO. LTD.

DEDICATED
TO THE MEMORY OF
EDWARD CAIRD
LATE MASTER OF BALLIOL COLLEGE, OXFORD

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PREFACE

IN the following pages an attempt has been made to follow the evolution of political ideas from the origin of the City-State to the rise of the modern Nation-State, and to give a concise statement of what seems to me to be the true principle of the latter. I have attempted to guard this principle from misconception, and specially to indicate the intimate relation of the State to the various subordinate organisations which it includes and which are essential to its perfection, as well as its relation to foreign states and to the world at large. To this has been added a short statement of the regulations of civilised warfare, a reference to the character of the British Empire, and a consideration of the proposals for a League of Nations. I have in the main avoided all reference to the present war, contenting myself with indicating the opposing conceptions of England and Germany. It may appear that I have gone a long way round, but perhaps this is a case in which "the longest way round is the shortest way home."

The development of political theory from the fundamental idea of Plato and Aristotle that the State exists for the production of the best life, through the long and troubled period of the Roman Empire and the Middle Ages, is a continuous development, in which one element after another obtains prominence, until we reach the period of the modern Nation-State, in which the ideas of check

and balance, of a law of nature, of absolute sovereignty, of contract and utility, form stepping stones to the clear and simple conception of the State as existing for the establishment of the external conditions under which the highest human life may be carried on.

Corresponding generally to the order of treatment in this volume, a List of References to books and articles that I have found more or less valuable will be found at the end of the volume. On the whole I owe most to Green's *Principles of Political Obligation*, Mr. Bosanquet's *Philosophical Theory of the State* and other writings, Edward Caird's *Evolution of Theology in the Greek Philosophers* and his *Critical Philosophy of Kant*, and D. G. Ritchie's *Natural Rights*. In the historical section I have derived much advantage from Professor Dunning's *History of Political Theories*, supplemented by Professor Coker's *Readings in Political Philosophy*.

Perhaps I should add that the text of this work was prepared for publication before the conclusion of the Armistice.

QUEEN'S UNIVERSITY,
KINGSTON, CANADA,
March, 1919.

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THE STATE IN PEACE AND WAR

CHAPTER FIRST

THE CITY-STATE : THE SOPHISTS, SOCRATES AND PLATO

IN the funeral oration preserved for us, in substance at least, by Thucydides, Pericles claims for the City-State two main excellences : it is pervaded by a single mind, and it allows free play to the capacities of the individual. Speaking of the Athenians who fell in the first year of the war between Athens and Sparta he says :¹ “ Before I praise the dead I should like to point out by what principles of action we rose to power, and under what institutions and through what manner of life our empire became great. For I conceive that such thoughts are not unsuited to the occasion, and that this numerous assembly of citizens and strangers may profitably listen to them.

“ Our form of Government does not enter into rivalry with the institutions of others. We do not copy our neighbours, but we are an example to them. It is true that we are called a democracy, for the administration is in the hands of the many and not of the few. But while the law secures equal justice to all alike in their private disputes, the claim of excellence is also recognised ; and when a citizen is in any way distinguished,

¹ Jowett's *Thucydides*, ii. 35 ff.

he is preferred to the public service, not as a matter of privilege, but as the reward of *mérit*. Neither is poverty a bar, but a man may benefit his country whatever be the obscurity of his condition. There is no exclusiveness in our public life, and in our private intercourse we are not suspicious of one another, nor angry with our neighbour if he does what he likes ; we do not put on sour looks at him which, though harmless, are not pleasant. While we are thus unconstrained in our private intercourse, a spirit of reverence pervades our public acts ; we are prevented from doing wrong by respect for authority and for the laws, having an especial regard to those which are ordained for the protection of the injured as well as to those unwritten laws which bring upon the transgressor of them the reprobation of the general sentiment.

“We are lovers of the beautiful, yet simple in our tastes, and we cultivate the mind without loss of manliness. Wealth we employ, not for talk and ostentation, but when there is a real use for it. To avow poverty with us is no disgrace ; the true disgrace is doing nothing to avoid it. An Athenian citizen does not neglect the State because he takes care of his own household ; and even those of us who are engaged in business have a very fair idea of politics. We alone regard a man who takes no interest in public affairs, not as a harmless, but as a useless character ; and if few of us are originators, we are all sound judges of a policy. The great impediment to action is, in our opinion, not discussion, but the want of that knowledge which is gained by discussion preparatory to action. . . . To sum up : I say that Athens is the school of Hellas, and that the individual Athenian in his own person seems to have the power of adapting himself to the most varied forms of action with the utmost versatility and grace.”

The problem of uniting public authority with individual

freedom, which Pericles claims that Athens had solved, is the problem with which Plato and Aristotle are concerned. The State must enable its citizens, they thought, to realise the true, the beautiful and the good, and to do so without derogating from the freedom and independence of the individual.

When Greek thought emerged from the stage of custom and tradition it first fixed its attention upon the external world, seeking to explain the life and movement of the All. In its search for a single principle it came upon the idea that underlying all change is an unchanging substrate, and this principle it sought to apply in explanation of the life of man as well as the life of nature. The Pythagoreans reduced the physical elements to numbers, and this principle they applied in explanation of the world of man's conduct. Justice they declared to be a square number, the State being just when it displays an equality of parts. To act justly is to take from him who has more than his share and give to him who has less. In Heraclitus, again, we have an application of the law of the world to the law of the State. It is, however, only when we turn to Athens of the fifth century that we find any definite political theory. Nature was conceived as a teleological scheme, and thus the transition was made from physics to politics. No longer was the same law supposed to apply both to physical nature and to man, and when man was compared to nature it was expressly by way of analogy, not of identity. As there is order in the great cosmos, so, it was argued, there must be order in that smaller cosmos, the State. With the SOPHISTS, however, we find ourselves in a new atmosphere. It is not the State but the individual upon whom they fix their attention. "Nature" is now expressly opposed to "convention." How did this change come about?

The old idea of the immemorial origin of customary laws was undermined by the process of history. Colonisation, by its formation of new states with new laws, and reflection on the variety of customs in different tribes and peoples, seemed to make it doubtful if there was any absolute law in regard to human affairs. The Persian wars gave an impulse to freedom of thought by increasing both national and individual self-consciousness, a self-consciousness which first appears in the philosophy of Protagoras and of Gorgias. Protagoras transferred his gaze from external nature to man, and declared that "man is the measure of all things," while Gorgias claimed that as a knowledge of nature is impossible, we ought to concentrate our attention on human affairs. It is man, subsequent Sophists went on to say, who in his own interest establishes the State and human institutions generally. This point being reached, it was inevitable that it should be inferred that laws and institutions exist, not by nature, but only by convention. This meant that customary moral ideas are not divine ordinances, as an earlier age had held, but on the contrary are distinctly opposed to the ideal code of morality. The source of law, it was held by the Sophists, is really the desire for the pleasure and satisfaction of the individual. "Justice is the interest of the stronger."

The political theory which this individualism produced was that of a social contract. The State, it was thought, arose when men saw that it was to their individual interest to surrender their purely selfish interests in order the better to secure them. They believed that by combining with one another and giving up their immediate satisfactions they would in the end gain more for themselves. Therefore they formed a contract, giving up their freedom in return for the protection and preservation of their lives.

Another and more extreme form of the theory held that the State was an expedient by which the weaker got the better of the stronger. This, it was said, inverts the true order of things, in which the strong by virtue of their strength have the greatest right to the best.

This theory of all being conventional was applied also in the sphere of religion. The first gods worshipped, said Prodicus, were personifications of the forces of nature, and according to Critias they were inventions of men for the better security of social life. The Sophist Alcidas declared that by nature no man was a slave, and that all distinctions of high and low were purely conventional. Even the institutions of the family and private property were attacked, and the communism afterwards suggested by Plato, which gave to women the same work and the same privileges as to men, seems to have been already anticipated. Not all Sophists, however, took such extreme views. Prodicus was a preacher of ethics, and Protagoras, as Plato tells us, believed that, while men gathered themselves together in cities for self-preservation, yet law and order were of divine regulation.

A truer theory emerged with SOCRATES, who sought to substitute self-knowledge for the self-assertion of the Sophists. He taught men to discipline themselves instead of following their natural impulses, and therefore he insisted upon the necessity of a definite knowledge of the nature of moral rules. For this reason he demanded that men should not only act morally but should have a clear conception of why they so acted. Hence his demand for definitions. That which a man has clearly defined to himself becomes a definite principle of action. In this sense he declared that "virtue is knowledge." He made no attempt to impose new rules of conduct upon men; on the contrary he claimed that we have only to make

explicit the rules by which men are accustomed to act to see that morality is universally binding upon men. When this is done it will be found that all moral rules subserve a single end, the end of happiness or well-being. It was with the object of making men conscious of their ignorance, and so leading them to see the necessity of clear definitions, that he practised the art of interrogation. Every man who worked at a trade knew precisely why he did certain things, and yet people go on contentedly, he said, in ignorance of the true meaning of life. Socrates therefore sought to arouse men from this fatal state of inertia, and to make of moral or political affairs a "profession" in the noblest sense of the word. He therefore inculcated the necessity of an art of life. Who would trust a pilot who could not distinguish the Polestar from Venus, who was ignorant of the currents, and did not know how his ship would answer the helm? And yet men are content to remain in ignorance of the ship of State. To remedy this state of things Socrates laboured incessantly, and ultimately lost his life in pursuit of what Plato calls his "mission."

Applying his principle that "virtue is knowledge," Socrates advocated an aristocracy of intelligence. He had no love for a sovereign assembly in which men sat who had never given a thought to the meaning of politics. There was therefore a certain amount of truth in the charge that he was not a friend of the Athenian democracy. That he was a corrupter of the minds of the youth was a charge entirely unjust—except in the sense that a fundamental criticism of traditional ideas is always disturbing—for his conception of the ruler was of one who acted only in the best interests of the people.

The CYNICS, while claiming to be followers of Socrates, really misinterpreted his doctrine that virtue is know-

ledge. The wise man, they said, is sufficient for himself. They revolted against the whole of society, affirming that one man is as good as another, and one country as good as another. "Why should I be proud of belonging to Attic soil with worms and snails?" If, they argued, Virtue is knowledge, external things, so far from being a help, are only hindrances to the proper life of man. The only citizenship the Cynic acknowledged was the citizenship of the world; which was no citizenship. Thus he destroyed the whole conception of the City-State, and the world was unprepared for any wider form of society. His ideal of life was that of the animals, who have no cities, laws or artificial institutions. Diogenes, indeed, held that there must be law, but it must be in a World-State in which all are equal.

The CYRENAICS, who also claimed to be the true disciples of Socrates, were, like the Cynics, individualists. Virtue is indeed knowledge, but knowledge shows us that what man seeks is pleasure. The State was therefore regarded as a superfluity. Law they regarded as a mere convention; things are right or wrong by convention, not by nature. They admitted, however, that a man might find pleasure in seeking the good of his friend or of his country. Thus Individualistic Hedonism, as always, passed into Utilitarianism. The Cyrenaics, however, added that general welfare was the welfare of the world, not that of the City-State. This simply emptied the idea of all content, leaving the individual alone with his desires. No doubt the ultimate ideal is the good of all, but it must be secured by the good of the State in the first instance. In point of fact the Cyrenaics were partly the expression of the decay of the City-State, and partly helped to bring it about.

The true follower of Socrates was PLATO, who develops

supplements and corrects the one-sidedness of his master. Starting from the thesis that "virtue is knowledge," he illustrates its application in his earlier dialogues, and then finding it too narrow he expands it until it embraces all forms of being and all life and action.

The *Apology*, though it deals primarily with the life and death of Socrates, is indirectly a discussion of the problem how far the individual is under obligation to obey the law of the State. This problem had already been presented in the *Antigone* of Sophocles, in which the heroine is represented as refusing to obey the command of Creon to leave her brother unburied, on the ground that there are "unwritten laws of heaven" which have precedence over the decrees of an earthly ruler. Socrates, suspected of being the head of an aristocratic coterie, was accused of corrupting the minds of the youth and disbelieving in the gods of his country. The problem raised by these charges is one of perennial interest, being substantially the same as that with which Luther was confronted in a later age. To cast doubt upon the customary ideas on which the laws of the State are based must introduce unrest and uneasiness into the mind of the average man, accustomed as he is to regard the ordinary customs and laws of society as revelations from heaven. On the other hand, in the mind of the intellectual, moral, or religious reformer there exists an ideal which goes beyond anything embodied in actual law, and he who is true to the light within him is impelled to express himself whatever be the consequences. The work of Socrates was mainly and directly that of the intellectual reformer who insists upon questioning accepted ideas and forcing men to ask what were the principles upon which they were accustomed to act. When therefore he was confronted with the alternative, Death or Silence, his answer was the answer of Antigone and

Luther: "This is the command of God. Acquit me or condemn me, I shall never alter my ways," or, in Luther's phrase, "Ich kann nicht anders." This then is Plato's answer to the question how far the State may rightly demand implicit obedience to its express commands. No State may rightly prevent the development of the individual by force, and if a man is conscious of possessing in himself at least the germ of higher truth, he must obey the "inner light" whatever be the consequences. There is, however, another side of the question. In the *Crito* Socrates is represented as tempted to escape from the prison in which he lies awaiting death. Will he again disobey the law and so save his life, or will he submit to what he must regard as an unjust sentence? This is not the same problem as before. There the question was whether it is permissible to act contrary to a higher law, and so violate one's conscience; here the alternative is disobedience of the law for a personal end. Socrates does not for a moment hesitate; he will do nothing to weaken or destroy the sanctity of the State, so long as no question of obedience to a higher law is at stake. No individual may oppose his own inclinations to the will of the State even when he believes that what it commands is unjust. We must remember, says Plato, that the individual is the child of society, and, while it is right to affirm oneself in obedience to a higher law, it can never be right to turn against our "maker" for personal reasons. Moreover, not only does the individual owe obedience to the State out of gratitude for the training he has received from it, but he has entered into an implicit covenant to obey its laws. When a man has reached the years of discretion he is at liberty to emigrate to another state, but if he elects to remain in his own, he gives a tacit consent to submit to its authority. Plato does not mean that society

is based upon a contract of individuals, for in that case the contract might be dissolved; what he means is that in any well organised State the recognition of the individual's rights involves an obligation on his part to submit to its ordinances. The burden of these two dialogues then is: Disobey the law when a higher impersonal law would otherwise be violated; obey the law where only one's own individual interest will be adversely affected.

The justification for the attitude of Socrates towards the customary laws of his country lay in his contention that morality depends upon customary ideas being raised into clear self-consciousness, while this again involves the assertion that morality is a thing that can be taught. To prove this latter proposition is the main object of Plato's *Protagoras*. In this dialogue it is suggested that the Socratic thesis, "Virtue is knowledge," may be defended on the ground that the good is the same thing as the pleasant. This is the doctrine afterwards known as Psychological Hedonism. Whatever be the special object in which men believe their good to consist, the real and ultimate object, it may be said, is pleasure, the immediate object being valued purely for the pleasure it is expected to bring with it. The distinction between the virtuous and the vicious man is therefore resolved into knowledge or ignorance of the objects which are fitted to bring pleasure. In order that we may act virtuously the essential thing is to construct a calculus of pleasures, by means of which we shall be saved from following the chance suggestions of the moment. As no one would deliberately choose a less in preference to a greater pleasure, the man in possession of such a calculus will, it is argued, inevitably act virtuously, that is, will act in accordance with what will bring the greatest pleasure in life as a whole.

In this very dialogue, however, Plato puts a very different view before us, which he expresses through the mouth of the Sophist Protagoras. This view contends for the substantial soundness of ordinary morality, as based on the common sense of men. Protagoras sets forth his conception of life in an apologue, in which man is represented as in his original state the most helpless of all the animals. In the state of nature men, even when endowed with the arts of life, are represented by him as involved in a continual struggle for existence, and as in danger of being destroyed by the lower animals. But Zeus sent forth Hermes to them bearing reverence and justice (*αἰδώς* and *δίκη*) to be the ordering principles of cities and the bonds of friendship and conciliation. Thus civil society is really a gift from heaven, not something which depends upon the special talent or energy of favoured individuals. For "cities," says Protagoras, "cannot subsist if a few only share in the virtues, as a few only have capacity for a special art." It is for this reason that all the citizens are competent to speak on questions affecting the common weal. In this region all the citizens are teachers of all. Morality is developed by the ordinary social training of the family and the school, and by the rewards and punishments which society bestows or inflicts upon its members. No scientific process of reflection such as Socrates demanded is required, but there naturally grows up a common feeling of what is right and what is wrong by the action of many minds upon one another. Why does the State inflict punishment upon evil doers if not to deter the criminal and others from wrong doing? This clearly implies that virtue can be taught.

Plato cannot be said to endorse either of these views without reservation. He has begun to see that customary morality is something more than ignorance, and does

not depend upon philosophic discussion, though such discussion may be required to bring its content clearly before the mind and free it from inconsistency. On the other hand he was not prepared to admit that the demand for a reasoned knowledge of the principles on which morality is based was altogether false. The doctrine to which he was feeling his way was that in the uncritical judgments of common opinion we have the first form of that consciousness of the good which it is the business of philosophy to analyse and develop. Thus between ignorance and knowledge, as he has begun to see, there is a third term—afterwards distinguished as “opinion” (*δόξα*)—partaking of the nature of both, but identical with neither. For perfect virtue, indeed, scientific knowledge is indispensable; virtue is one, and its oneness can only be discerned by systematic reflection; but it is none the less true that without “opinion” there would be nothing from which this systematic knowledge could be developed. //

This doctrine is stated in the *Meno*, a dialogue which on linguistic and other grounds we may confidently assign to the same period as the *Protagoras*. Knowledge, it is said, may be called rather remembering than learning anew. In a previous state of existence, as Plato mythically puts it, the soul was in possession of truth, which has been temporarily lost by the shock of birth. Knowledge is therefore recovering what in an obscure way it already possesses. Thus the transition from the unreflective to the reflective consciousness, from opinion to knowledge proper, consists in the recognition of what was present in an intuitive form. This transition, however, is not a mere restatement of truth already present in the unreflective consciousness, but a grasp of the particular proposition as part of a connected system of ideas. Thus

we can understand how an act may rightly be regarded as just or temperate or courageous, though the individual who makes the judgment may be quite unable to define justice, temperance or courage. In our ordinary moral judgments there is really, though not explicitly, a union of the universal principle and the particular instance; and what reflection does is not to introduce a new principle, but only to lift the principle involved in the particular judgment into the light of clear and explicit consciousness, and thus to show why it had been regarded as good. If it is asked why we should not be satisfied with our ordinary moral judgments, Plato answers that, so long as the principle which guides our action and justifies it is not clearly grasped, there is always a danger that we may fall into confusion and pronounce to be good that which is not really good. This is the weakness of all purely instinctive action, which is apt to fail us just at the critical moment. Only a reasoned knowledge, illuminated by a principle clearly grasped, will meet all the demands of life, and only such knowledge can be communicated to others. It is for want of this reasoned knowledge that good statesmen cannot transmit their gifts to their sons. They have never themselves gone beyond the stage of "right opinion," and right opinion, like divination in the sphere of religion, cannot be communicated from one to another.

If virtue in its perfect form can only be reached by a complete and scientific education, the true statesman must be one who in the government of the State has a clear knowledge of the principles of statesmanship. This is the substance of the *Euthydemus*. The great object of the statesman who possesses the true knowledge of statesmanship is to communicate the knowledge he himself possesses to the citizens. All other results—wealth, freedom, tranquillity,—are in themselves neither

latter art, the art of politics, like medicine, has two branches : one which regulates the growth and healthy action of the soul, and the other which heals its diseases. Sophistry gives false principles to regulate the soul, and rhetoric merely makes a pretence of curing injustice by "making the worse appear the better reason." The Politician who seeks merely to aggrandise the state, filling the city with harbours and docks and walls and supplying it with fat revenues, forgets the true end of statesmanship, and leaves no room for justice and temperance. To be a true statesman a man must be trained in the art of politics. He must have a right moral purpose, and also a full knowledge of the political art ; he must be at once unselfish and a specialist. Politics is an art, and like other arts it demands unselfish love of work and trained knowledge.

Plato is not disposed to regard the Athenian State with the too partial eyes of Pericles. What is required is that the conduct of the citizens should be determined, not by instinctive judgments, which may or may not be right, but by principles that have been explicitly grasped and put in practice. This is the great want, he thinks, of the politician, who may have a natural gift for government but is unable to explain to others the principles by which he acts. Practical tact may lead him right, but it cannot be transmitted from one to another. There is needed also, he argues in the *Republic*, a thoroughly systematic method of education, by which the true statesman may be formed and enabled to act on the minds of the citizens without any force but reason. For reason is not something peculiar to this or that mind, but the great principle of unification. The whole community will have a common will if men are but agreed in the principles from which they act. The object of the State is to produce the best kind of citizen, and this cannot be

done without enlightenment on the part of the rulers as well as recognition on the side of the citizens. Wisdom is not to be found in every uneducated workman who imagines that his ill-digested opinions are equal in value to those of the trained and educated statesman. Politics is a science as well as an art, and therefore a special class of citizen must have charge of affairs of state.

Plato's view, then, is not that every State is of necessity fitted to secure the highest good of the citizen. A State may be so bad that it will only confirm the confusion between the real and the apparent good. But, while this is so, it is Plato's firm conviction that apart from society the best life is impossible. It is in and through the organism of the State that man can be taught to distinguish between the real and the apparent will. The statesman has therefore the fundamental nature of man to work upon, and it is his special task to legislate so that the never-dying will for the good shall be promoted and the immediate desire for particular ends curbed and purified. Thus the State is no arbitrary product of the unenlightened individual, but is essential to the revelation of the true will of man. To Plato therefore the question, What is a good man? immediately merges in the deeper question, What is a good State? Thus moral philosophy is inseparable from political philosophy. It is the object of genuine political philosophy to instruct the citizen in the good life, and the study and practice of statesmanship is indispensable to the creation of the best form of society. The statesman must know what is the true good, or his legislation will only confirm men in their devotion to their immediate ends. We must therefore have a thorough system of education by which the true nature of the good is grasped and distinguished from lower ends. False views of the function of the State are the cause of its cor-

ruption, and therefore we must examine and refute the doctrine of the Sophists that organised society is purely conventional. The State does not exist, as they taught, for the self-satisfaction of the rulers, but for the development in the citizen of an unselfish interest in the common weal. In truth the good of the individual can only be secured by providing for the good of the whole. The laws of morality are not conventional, but are the expression of the true nature of the human soul. The State is a communion of souls united by reason for the pursuit of a moral end, and all its provisions should be framed with a view to that end. But this idea of the State is far from being realised in existing forms of society; on the contrary, these are infected with an individualism that gives only too much support to the false views of the Sophists; indeed, were it not for "that great Sophist the public," they would have very little influence. To restore the broken unity of the State by developing the true will of the citizens is the aim of Plato, and this aim, he thought, can only be secured by taking the power out of the hands of the ignorant mob and of the self-seeking politicians who exploit the State for their own ends. A democracy which encourages the predominance of the ignorant and of the selfish demagogue seems to Plato inconsistent with the true end of society. Since government must be carried on by men trained to the work, not by an ignorant rabble, every man should be limited to the task for which by nature and training he is best fitted. Plato has no superstition as to the absolute good of independence; he is prepared to exercise any amount of interference with the individual, provided that it is necessary to the emergence of his deeper will and his truer self. His view is just as hostile to an oligarchy which employs the office of the State for its own selfish ends as

to a democracy which rests upon the selfishness of the mob. The State must not be split up into two hostile camps, the rich and the poor, the oppressors and the oppressed. Plato is quite prepared to strike at the root of avarice by abolishing wealth, and to destroy the selfishness of the Family by an abolition of the institution. Nor will he allow of any absolute division between man and woman, a division which to his mind loses the services of one half of the community from traditional prejudices.

Though he begins with a consideration of the State, Plato really presupposes the threefold division of the soul into appetite, spirit and reason as his foundation of the division of the State into three classes. In its lowest form society is an expression of the appetitive part of the soul. It is an organisation for the satisfaction of certain physical wants. The necessity for such an organisation lies in the fact that no man is by himself self-sufficient (*αὐτάρκης*), while yet he is able to contribute something that is required by others. The result is an inevitable division of employments, involving a combination for the reciprocal exchange of the several articles produced by each. The principle of reciprocal service is thus the foundation of the State. Not that this principle is to be regarded as a purely economic one, for Plato conceives the whole of society as resting upon the proper division of labour and the assignment of a special function to each man in accordance with his natural endowment. This principle we find illustrated in the economic aspect of society. By specialisation of employments a greater number of commodities is produced, and these of better quality than could be obtained by every man dissipating his energies in the production of various different kinds of goods. Nature has itself indicated this principle, for no two men have exactly the same natural qualities. Thus indus-

trial society grows and differentiates itself. We find pastoral, agricultural and mechanical industries practised by distinct classes of producers, and economic society is enlarged by the growth of foreign trade and commerce. Society, however, as so constituted, provides only for the satisfaction of the elementary wants, and is in itself little better than a "city of pigs," since it is wanting in those refinements and higher purposes without which civilised man would not consider life worth living.

So far the only part of the soul which has come into play is that of appetite. Spirit emerges in the more developed form of the State. With the growth of luxury and refinement, along with the accessories of the fine arts and poetry and the art of medicine, it is found that the land is not sufficient for the support of the population, and thus arises war. The element of spirit now comes into play, leading to the military organisation of society, the function of which is to protect it against aggression and to maintain internal order. For a State must be strong, if it is to preserve the conditions under which the higher life is developed. Shall we then have in our State a special class devoted to war, just as in the economic sphere we have found the true principle to be the specialisation of employments? The answer cannot be doubtful. There must be a military class to safeguard the State from attack, and the members of this class must be selected on the same principle of natural capacity as that which determines the allocation of employments in the organisation of economic society. The men fitted by nature to serve as guardians are those who are marked by the possession of spirit, the fighting element in human nature. But they must also possess an element of an opposite character, the element of wisdom—the "philosophic" element Plato calls it—which binds men together in unity. Like

a good watch-dog, which is mild and gentle to friends but fierce to strangers, the guardians must love their fellow-citizens and be implacable only to the enemies of their country; and such love, as based upon knowledge, is one of the forms in which reason manifests itself.

Reason, however, is most perfectly shown in the ruler. In the military class it is only seen in the instinctive form, while in the ruler it becomes self-conscious; for the wise government of the State implies the exercise of reason in the form of love of country. The true rulers will be those who find their highest good in disinterested service. The real bond of the State is therefore reason. It is reason that binds men together by teaching them to understand one another. The rulers, like the guardians, must be a distinct class. Reason including love is found in anything like a pronounced form only in a few, and these must be subjected to the severest tests before they are set to govern others. They are to be selected from the most promising of the military class. They must have the philosophic temper, and be trained to recognise justice, beauty and temperance, so that they may fashion the citizens under their care after the image of those virtues. The ruler who is also a "philosopher," a lover of wisdom, must be able to see the dependence of all other ideas on the idea of ideas, the idea of the Good. Thus he will contemplate all human action as subordinate to this supreme principle. The State can only be perfect when it is guided by men who are possessed of this comprehensive view of human life.

The community, then, must be a unit, and at the same time there must be specialisation of function and proper distinctions of class. What then are the virtues required in a complete State? They are usually said to be wisdom, courage, temperance or self-control, and justice. Now

wisdom is an enlightened way of dealing with the internal and external relations of the whole community. The capacity to deal with them in this way is found only in a very few men, and these we must make the rulers. Wisdom is therefore the special virtue of the rulers, who alone know what is best for the whole community. The typical form again of the virtue of courage is manifested on the field of battle, but Plato so widens the conception of it as to make it include everything that we should call moral courage, that is, the power of remaining steadfast in what one believes to be right in the presence of anything from which we naturally shrink. To secure the existence in the State of those who can be trusted under all circumstances to display this virtue, we must choose those who have the right natural disposition and give them a careful education. It is for this reason that we insisted so strongly on the necessity of selecting our military men and training them by means of gymnastic and the arts to play their part worthily. For courage is not the blind or irrational quality of the animal or the slave, but the enlightened courage of the trained citizen, the power to do what is right in spite of the strongest solicitations of fear or desire. As to the third virtue, self-control, we have seen that the State consists of rulers and ruled, and that it is necessary for the citizens to regard this as the proper form of the community. Self-control may therefore be regarded as a harmony between the different elements in the State, such a harmony as results when the best rule and the others obey, all uniting in this arrangement as that which secures the best results.

There still remains another virtue, the virtue of justice, and Socrates in the *Republic* is made to express great perplexity as to what it can possibly be. Wisdom is characteristic of the rulers, courage of the soldiers, self-

control of the working-class, but what is justice? Rulers, soldiers and workmen are the only classes in the State, and each has its proper virtue; what then can justice be? We have been looking for it afar off, when all the time it was "tumbling out at our feet." What was the general principle on which our State was to be organised? Was it not that each man should devote himself to that one function in the State for which he was by nature best fitted? This we found to be the foundation of economic efficiency, and it turned out later to be the principle by which a special task was assigned to the different classes in the community. May we not then conclude that justice is this principle of the distribution of functions? It is not a special virtue like temperance or courage or wisdom, but consists in the exercise of each of these virtues by the class of which it is the characteristic quality. When the rulers are wise, the soldiers courageous and the workmen self-controlled, then the State as a whole is just. Justice in short consists in each man fulfilling the special duties of his station.

In order to secure justice in the State Plato has two suggestions to make. There must be a common system of education and a system of Communism. The former is necessary in order to do away with that conceit and ignorance which Plato found to be prevalent in Athens and to prepare men for the discharge of their special function. The latter he regards as essential if the temptations to inordinate selfishness are to be removed. The education of the young should consist of art and literature on the one hand, and gymnastic on the other; while the education of the ruler is to be scientific and philosophic. The ultimate object of the earlier training is to turn the inner eye towards the good, while it is the object of the later to bring the mind into direct contact with it. In order to

discover men who are fitted to rule, we must find out whether those who have been under training are ready to give up their private interests for the public weal and are fitted to bear the burden of responsibility. They must be free from intellectual indolence and from the false influence of pain and pleasure, and no others can be allowed to rule. Those who have stood the test well to the end should, when they have been matured by long experience, be made rulers, while the younger members of the service will act as auxiliaries. From the age of twenty to thirty those who have proved their superior ability during the earlier education and have shown a special aptitude for science will be practised in war and all the other duties required by the State. From thirty to thirty-five a training will be given in philosophy to those who have excelled in the study of science. For the next fifteen years these will hold all commands in war and deal with other matters not reserved for age, and in general their lives will be spent in the acquisition of political experience. Those again who have stood all the tests will at the age of fifty spend part of their life in the service of the State, but will also be allowed to devote the rest of the time to the contemplation of the Good. Thus in Plato's eyes the final goal of life is the life philosophic, which he regards as the highest. The ruler who has reached this highest point will still serve the State, not because he has a desire to gain honour, but as a duty to be borne for the good of his fellows in requital of the training that he has received. Thus all faction will be excluded, for there will be no struggle for office and none of the fierce conflicts that accompany it.

Our conclusion so far is that human society should be organised on the principle that each may contribute his best to the whole and receive from the whole what he most

wants. There must be an entire absence of self-seeking and of all attempts to find satisfaction in the lower instead of the higher elements of human nature. All inducements to follow the immediate desires must be removed, and full advantage must be taken of the powers latent in all members of the community. Are we then taking full advantage of those powers when we educate only one sex in art and gymnastic, in science and philosophy? Is there such a difference between men and women that only the former are fitted to be soldiers and rulers? There is of course a sexual difference, but is it such as to imply that women must be excluded from the protective and deliberative functions? Certainly it is not so if we follow our old analogy of the watch-dog, for here sex makes no difference of function; and if there is no good reason for drawing a distinction in the case of human beings, women should be trained in the same way and employed in the same social service as men. The whole question is whether this will minister to the higher good of the community. It may, however, be denied that the interest of society demands so radical a change, on the ground that it is inconsistent with that specialisation of function which has been made the very foundation and justification of the State. The objection has no real force, for the difference of function between the sexes does not prove that there is a difference in relation to the functions to be discharged in society. No doubt men as a whole are superior to women, but there is no special endowment of the one sex as compared with the other, and as to expediency, there can be no doubt that both women and men should be as good as possible, and therefore both should have the same kind of education.

But can we allow the family as at present constituted to continue in our ideal State? The answer can only

be given by considering that the State should not exceed a certain number of citizens, and that the principle of society is to secure a common spirit by eliminating the temptations to selfishness. The former object Plato hopes to secure by an elaborate system in which the production and rearing of children will be brought under State control and determined on scientific principles, and the latter by a regulated system of common life.

Excellent as is the State which has been sketched, is it practicable? It must be at once admitted that the ideal cannot be literally realised. Justice is the perfect pattern of what a State should be, but we can never find it realised in any actual community. But can it be even approximately realised? It can, answers Plato, but only on condition that most of those who now possess political power should be deprived of it, and that all power should be given only to genuine philosophers—by which he means something very different from those who call themselves philosophers; he means in fact men of genius in the fullest sense of the term. Only such men have a clear perception of the principle upon which the State should be based, and they must have the peculiar knowledge that comes from wide experience. Both are needed, but of the two the more important is a firm grasp of principles, without which experience is of little account. The philosopher as conceived by Plato has all the qualities which go to make up a perfect character. The love of truth, which is in him fundamental, involves the passion to learn and to be at one with the permanent nature of things, or to possess wisdom; it leads to self-control, because it is an absorbing passion, which expels all lower desires; it gives courage, for he who has the vision of all time and all existence will not fear death; and he will be just, having no fear, greed or personal passion to deflect him

from the straight path of justice ; and finally the philosophic nature is quick to learn and retentive of what has been learned, and so it will readily adapt itself to the form and pressure of things. We may say in fact that it is the philosophic nature which makes a man truly man. To such a man surely the government of the State may safely be committed.

But if the philosophic nature is that which is best fitted to rule, how is it that those who devote themselves to philosophy are such useless and unpractical persons, while the majority of them are either eccentric or are rascally knaves ? The fact is undeniable, but the explanation must be sought in the divorce of speculation from practice. The philosopher is useless because the helm of State has been seized by the demagogue, who persuades the well-meaning but somewhat stupid people that politics is an art that cannot be taught. A much more serious cause of the ruin of the State is the demoralisation of those who have a natural gift for philosophy. The great source of the corruption of souls naturally fitted for the highest things is the noxious surroundings in which they are placed. It is the strong man and not the weak who suffers most. " That great Sophist the public " does all it can to corrupt an originally noble mind. How can we be surprised that the low views of life which confront the philosophic soul everywhere—in the assembly, the law-courts, the theatre, the army—should deflect it from its true path ? When the truth is presented, the leaders of society are at once up in arms, and do all in their power to corrupt the strong man and to use him for their own base ends. The consequence is that philosophy is deserted by those who in a proper environment would have been its best representatives. Yet as philosophy still retains the splendour of a great name, small petty

souls claim to be its representatives. They are like a little bald tinker who has come into a little money and takes advantage of the poverty and loneliness of his master's daughter to marry her. In the midst of this evil world what can a true philosopher do? He can only go on doing his own work and saying nothing, like a man in a storm who takes shelter behind a wall from the driving wind of sleet and hail. Thus he suffers a kind of defeat, which can only be remedied by a total reconstruction of society. Nor is such reconstruction impossible. Men are so hostile to philosophy because they are ignorant of its true nature, confusing it with the jargon that passes for it. The true philosopher is one who dwells in a kingdom of peace, a world of unchangeable law, which is the real nature of the world. If this perfect law could only mould the characters of men in its likeness, we should have the actual embodiment of the ideal in an existing State. But the production of a philosopher of this type must necessarily be a hard and difficult task, one which can only be accomplished by a severe and long protracted system of education such as has been indicated above.

We have now obtained a general view of the Platonic State and of the functions and virtues of the classes into which it is divided. What at once strikes us in the sketch is the absence in Plato's account of justice of all reference to rights. And in point of fact there are no individual rights in the case of the two higher classes. Only in this way, Plato thinks, can they be trusted to seek only the good of the State. The element of desire must be allowed to have no share in their actions. Thus Communism is no accident in Plato's theory, but inevitably follows from his conception of the opposition of reason and desire, and the necessity of the higher classes being governed

only by reason. If they were to have their energies frittered away in the pursuit of wealth, how could they be expected to give their unstinted energy to the good of the whole ?

The Communism of Plato, unlike modern Socialism, has nothing to do with the economic condition of society. The ruling classes have no property, but live on the necessities supplied to them by the labouring class. Modern communism, on the other hand, aims to destroy the unchecked competition of individuals in the economic sphere. Plato does away with the competition for power between one selfish unit and another, seeking as he does to free the rulers from all distractions, so that they may give all their time and energy to the State ; and it is for this reason that he advocates a communism of wives as well as of property. The family seems to him inconsistent with that concentration of energy on the public weal, which is his ideal of society. Each separate home appears to him to be a centre of exclusiveness. He first emancipates woman from the drudgery of household cares, setting her energies free for the work of the State. Thus she stands beside man ready to share in the fulness of his life. The fundamental defect in this conception of the family is not in its aim, which is high and noble, but in the false view of marriage upon which it is based. The physical basis of the family relation is not its deepest purport. To regard it merely as a device for the production and rearing of children is to overlook what Plato himself has pointed out in another connection, namely, that the physical basis is entirely transcended in the higher aspects of the family relation. Upon it is based the finest form of friendship, and it must be remembered that the training which children receive in the family cannot be replaced by the colder method of State regulation.

The communistic theory of Plato rests upon the untenable assumption that the evils of society can be cured by an alteration of external conditions. As Aristotle points out, you cannot get rid of social diseases except by a change of mind. It is the truth that sets men free, not a mere change in external organisation. This is the spirit in which Aristotle would vindicate property as the basis of a moral life, and justify the family as an essential preparation for the wider life of the community. The higher self must be based upon an initial consciousness of individual personality, and Plato's attempt to convert the individual into a pure organ of the whole is doomed to failure because it takes away that intense consciousness of personality which is the condition of the higher life. He who has no self cannot be unselfish. The good of the whole can only be secured by means of subordinate organisations. It is true that men must learn to rise above the separate individuality of the single life, but this advance can only be made by means of the moralisation which is afforded by the family, and by trade and commerce as implying individual rights of property. And it might be added that just because Plato does not allow for the moralisation obtained by organs subordinate to the State, he is unable to free himself from the narrow limits of the Greek City-State. He would limit the population on the ground that beyond a certain number a State is unable to develop the intense patriotism which he has in view as its ideal. This attempt at artificial limitation is no longer necessary when the State widens into the nation, much less when we keep before our minds the wider unity of a world policy. It may also be pointed out that Plato's whole conception presupposes a fundamental distinction between the working class and the governing class which can only result in degrading both.

The workers are shut out from the training given by active participation in the government, and the rulers lose the valuable insight acquired by participating in active life. The State must be not only organic, but every member in it must take an active share in all its concerns, unless we are to have a conflict of classes and a consequent weakening of the body politic.

While we cannot accept the ideal State of the *Republic* literally, we must not undervalue the aims which Plato has set forth with such force and clearness. The State ought to be the embodiment of the best mind of the whole community, and this mind must work through its various institutions. It is necessary if this ideal is to be realised that the citizen should have no individual interests which conflict with the good of the whole. It was for this reason that Plato sought to make selfishness impossible by removing its occasions, and though he erred in regard to the means by which he endeavoured to secure this end, the end itself remains the ideal of society. Plato forgets, or does not realise, that the State cannot be stereotyped for all time, but must necessarily grow with the growth of men's insight. The citizen must be certain that any change proposed is really an advance, and this is only possible in a community where the whole people participate in the government and learn by experience what lines of action do not lead to its complete organisation.

While the speculations of Plato bring out very clearly his conception of the community as a combination of citizens by which the best life may be realised, the restriction of the State to the City and a want of faith in the free movement of the human spirit led to an abstract view of social life. On the one hand Plato does not think of the State as serving a special task in the development of humanity, and on the other hand he lacks confidence

in the possible political wisdom of the working class, and in the unselfishness of the upper classes. These two defects are in fact correlative, for it is because he thinks of the members of his State as Greeks with special gifts and virtues that he has so little faith in the individual citizen. When a thinker starts from the conception of a special race, and not from that of humanity, he naturally denies that reason is a universal possession. Hence Plato, while in his conception of woman's sphere and capabilities he was far in advance of his age, has no proper appreciation of the latent powers of men, and therefore no real faith in their freedom and independence. The State as he conceives it is lacking in the differentiation of life and character which is essential to its perfection and to the full development of man. His communism is really incidental to his limited conception of society. In this respect Aristotle saw much deeper than Plato, finding in private property and the family the essential conditions of the best life ; though even he could not shake off the prejudice that a good State must, like Athens, be limited in territory and sufficient to itself.

CHAPTER SECOND

THE CITY-STATE—*Continued*: ARISTOTLE

WHILE Plato has given us the sketch of a City-State in which nothing but the pure or real will of the citizen is embodied, and while, in order to free it from imperfection, he is prepared to sacrifice the free play of individuality, Aristotle believes that the real will of the people may be realised without detriment to the independence of the individual. Neither the one nor the other has any conception of a State wider than that of the City, although when Aristotle wrote his *Politics* the City-State was drawing to a close.

Like Plato, Aristotle assumes that the State must not exceed the limits of the Greek City-State, while the citizens must be of the general type of the Hellenes. The real function of organised society is not outward success of any kind, and certainly not the amassing of wealth, but the production of citizens of the highest intellectual and moral culture, to whom all other citizens must be subordinate. As the end of society is to secure the realisation of the best life, Aristotle is led to regard the main body of the people as instruments for the production of the highest results in the person of a few privileged citizens. One of the conditions for the fulfilment of this object he believes to be found in the physical features of Greece. Greece, as Homer says, speaking of Ithaca, is "a rugged country, but a good breeder of men." Composed of chains

of mountains interrupted by deep depressions, it seems destined by nature to be split up into small independent commonwealths. It was naturally a maritime country, with its coastline of bays and peninsulas and its lines of islands stretching towards the East. The internal resources of Attica fitted it for commercial and industrial pursuits. No large population could be maintained by its comparatively poor soil, but it was well adapted for the culture of the olive, the vine and the fig. As Mr. Bosanquet points out,¹ it "had an inexhaustible store of the choicest marble, a supply of clay adapted for pottery, a sea well stocked with fish, a flora which gave the choicest honey, and above all silver mines, from which a considerable revenue was drawn, and owing to which the Attic silver coinage had a general currency like that of English gold, and Athens could always pay for her imports in specie if commodities suitable for export were not forthcoming." These natural features were taken full advantage of by Athenian statesmen, who saw that the future of the country lay in industry, commerce and letters. Themistocles persuaded the people to apply the revenue from the silver mines to the building of ships, by which the maritime supremacy of Athens was assured. For the defence of the harbour a fleet was needed, and the three natural harbours of Piraeus were constructed.

Aristotle is quite alive to the importance of these gifts of nature, as well as to the necessity of having a population of the right kind to make them available. Nature, as he saw, ceases to be mere nature when it is translated into a world by man's mind. The State, says Aristotle, 'comes under the influence of necessity, for it must have a territory and a supply of external things, as well as a population of the right kind. Of even greater importance

¹ *International Ideals*, p. 256.

than material conditions are the citizens themselves. If these possess the proper physical and spiritual qualities, they are able to turn to account the material conditions' in the perfecting of society. Nature itself often aids in this work, making a cunning use of necessity. Necessity demands that means should be provided for the maintenance of life, but nature may employ this fact in order to secure the higher end of a good life, provided only that the citizens are endowed with the qualities that enable them to make full use of their natural advantages. Man, working on the material supplied to him by nature, is able to mould it in accordance with reason. It is true that the "matter" is not always in harmony with the "form"; but here man may intervene and help nature to realise its end. In a good State we may therefore expect to find the formation of men into a community for the fulfilment of their latent and ideal nature. The State is natural both in its origin and in its end. It has its origin in the household and in the village, and its end in the realisation of the best life. For this purpose there must be a natural order and proportion, and therefore Aristotle will not accept as final certain forms of communal life. In distributing its favours the State must assign wealth and political power, not to every citizen in the same degree, but only to those who are best fitted to use them wisely. It is for this reason that he divides society into two sections: the one, and that the largest, having to do only with the production of the necessities of life; the other, and the smaller, with the true life of the State.

In developing his own view Aristotle has before his mind the conception of the community expressed by Plato. This conception he accepts in so far as it maintains that the State exists for the production of the best life and the highest type of citizen; but he refuses to accept the

regulations by which Plato seeks to secure these ends. At the very beginning of the *Politics* he examines the Platonic doctrine of paternal government, maintaining^s that it rests upon a confusion between the State and the Household. In the *Politicus* Plato maintains that just as it is the function of the father as head of the family to rule over his children and slaves, so it is the function of the head of the State to rule over the citizens, prescribing for them their duties without any initiative on their part. The State, Aristotle argues, cannot thus be identified with the Family. It is not correct to say that the authority of the father over his children and the slaves of his household is the same in kind with that exercised by the ruler over his subjects. The ruler must express the common will of the citizens, and therefore the consent of the citizens is implied as a necessary factor. The State, it is true, originates in the household, but the household is only related to it as the seed to the full-grown plant. The relation of husband and wife arises from an impulse common to man with the plant and the animal, while the relation of master and slave is based upon the necessity of providing for the subsistence of the family. The household is "natural," resting as it does on the reproductive instinct and on the impulse to self-preservation. Moreover, the relation of master and slave is also "natural" in the sense that the master by his superior intelligence is the ruler, while the slave by his physical strength is fitted to carry out the will of the master in the production of the means of subsistence. The relation of husband and wife is different from that of master and slave, for the function of the woman is to bear and rear children, while that of the slave is to supply the wants of each day. It is a mark of barbarism either to class women with slaves, or to enslave a free-born Greek.

The household naturally expands into the village community by the association of several households. It is based upon a common descent, and supplies wants that go beyond the necessities of the day. The most natural form of the village community is that of a colony from the original family; and as the family was ruled by the father, the form of government, when the village community expanded into the City-State, is naturally that of a monarchy. Like the family and the village community the State first arises from the necessity of providing for everyday wants; but having arisen, it continues to exist for the development of the higher life. The State, in even a higher sense than the household or the village community, is "natural." It is higher than these, because it alone is self-sufficient. Man is by his essential nature ordained for civil society, and he who is without a country, either through natural causes or through misfortune, is either above or below humanity. Unlike the gregarious animals, man has the gift of articulate speech, and is able to discern the distinction of good and evil, right and wrong. On this consciousness of good and evil, justice and injustice, the State is based. Thus, though Aristotle traces back the origin of society to impulses common to man with the animals, he recognises that the presence of consciousness in man makes him essentially different in nature. The State is no external device for the realisation of some immediate good, but is absolutely necessary to the complete exercise of man's powers. It is thus evident that in nature it is logically "prior" not only to the individual but to the family and the clan. What is only implicit in the family and the clan is in the State explicitly realised. Just as in a living being no single organ exists except in its inseparable relation to the whole body, so the State is presupposed in the individual, for the indi-

vidual cannot supply all his wants, physical, mental and spiritual, when he is separated from his fellow-men. How necessary the ordered life of the community is may be seen from the depths of degradation from which it saves the individual man. In his completeness man is the best of all animals, but just because of this when he is separated from society he is the worst. Justice is essentially a virtue of society and exists only in an organised community. It is therefore a gross mistake to say that the State is purely conventional, as the Sophists affirmed, or is unessential to the best life, as was declared by the Cynics. Were not the State the expression of man's true nature, no contract could give it authority. We must not think of it as limiting the rights which men possessed in their separate existence ; it is the State that creates and justifies rights. It owes its existence to the love of society and the perception of right and wrong implanted by nature in man ; to the impulse of self-perpetuation ; to the need of protection from enemies ; and above all to the demand for the satisfaction of the higher needs.

As the Family exists within the organism of the State, and indeed is the simplest constituent of it, Aristotle begins by pointing out the different relations it involves. Accepting the Greek form of the household, he says it has three constituents or relations : the relation of master and slave, that of husband and wife, and that of father and child. With Plato he regards the institution of slavery as not only necessary but as essential to the higher life. There are, he claims, natural masters and natural slaves, and he goes on to argue that slavery is best for the moral efficiency both of the slave and of the master. As a matter of fact Attic slaves were very well treated and were protected by society from ill usage. Many of them did the same work and received the same pay as freemen. Aris-

tote, however, would limit slavery to those who were unfit for any but the roughest work, such as digging and lifting, pulling and pushing and carrying. As instruments of the family they are regarded by him simply as property. Their function is to perform services, not to produce commodities, as is indicated by the definition of a slave as "a piece of property of an animated kind engaged in rendering services." The master, he holds, is to the slave as soul to body. Aristotle's doctrine rests on the assumption that there are men whose sole use is in their bodily strength. He admits, however, that nature has not always distinguished the master from the slave, and it is perhaps for this reason that he provides for their possible emancipation. While maintaining that there is a natural slavery, Aristotle rejects the slavery that is based upon victory in war, and he is absolutely opposed to the enslavement of Hellenes.

As the slave is a member of the household and also an object of property, the transition from slavery to the consideration of property is easy and natural. Property is external to the good life, being only a condition and not a part of it. Wealth is merely a means to the attainment of this life, and is therefore defined as "a store of things which are necessary for life in the association of city or household." As the instrument of the moral life it must be limited in amount, for otherwise it would only serve as a hindrance. There are two ways of acquiring wealth: firstly, by cultivating the earth, and secondly, by exploiting one's fellows, either by selling commodities at a large profit or by lending money at heavy interest. These are contrasted as respectively the natural and the conventional method of acquiring wealth. Nature, which does nothing without a purpose, provides plants and animals for the support of human life, just as it provides the

milk in the mother's breast at the beginning of the child's life. The art of profit-making, on the other hand, is an unnatural mode of acquisition, since it takes advantage of men's necessities to extract profit from them. 'Every commodity has a double use : it may be employed for immediate consumption, or it may be used for the purpose of exchange. The use of commodities for the purpose of exchange is indeed necessary and natural within its proper limits, serving to correct the inequality which results from one man having too much of one thing and another man too little ; but when one person gets more than a sufficiency, giving less than he receives, equality disappears and injustice enters. The unnatural exploitation of other men takes the place of the natural exploitation of the soil. The transition arises through the medium of money. The primitive exchange of the village consisted in a simple system of barter, but if a man desires to deal with a foreigner, he may not be willing to pay the cost of importing a heavy article, and instead will prefer to use silver or gold, which are of great value in proportion to their bulk. Thus money comes into use as the medium of exchange. Now it is the existence of money that in Aristotle's view facilitates the rise of the dealer or middleman, who grows wealthy at the expense of others, abstracting from them part of the substance which they have acquired for themselves in a legitimate way. Forgetting the true end of life, the dealer desires unlimited wealth. Classing usury under the head of profit-making of the illegitimate kind, Aristotle condemns it even more decidedly than commerce. It is a means by which men make profit out of the necessities of their fellows and make barren metal breed an issue.

The main end of the State is not, however, the satisfaction of the lower wants, but the institution of means

for the development of the best life. The State being a "community," it is obvious that all the citizens must have something in common; at the very least they must all live on the same territory. But can we accept the suggestion of Plato that community should be stretched so far as to include a community of wives and children and property? In this way he expected to do away with dissension and selfishness. In the *Republic*, indeed, he seems to confine his communistic scheme to the upper classes, but in the *Laws* he declares that the best form of the State as a whole is that in which all things are held in common, private and individual interests being altogether banished from life, so that all men will express praise or blame and feel joy or sorrow on the same occasions.

Aristotle defends the institution of the family and private property. Plato, he argues, has a wrong idea of the true unity of the State, not seeing that differentiation is as necessary to its perfection as identity. It is for this reason that he assimilates the State to the Family, which is to overlook their specific difference. Nor is it a confederacy, which is an aggregation of similars. The greater the number of persons who compose an alliance, the stronger it is, whereas a State, when it exceeds a certain number, loses its compactness and the kind of unity which its idea demands. That which constitutes the true form of society is dissimilarity in its members, and a reciprocity of service and functions. There must be rulers, who afford a wise and intelligent guidance to the subjects, in return for which they are entitled to receive respect and to exact a willing obedience to their commands. There must be reciprocity even among free and equal citizens, for all cannot rule at once, and the only possible alternatives are either a permanent ruling body or an alternation or rotation of functions. In the State there must also be

a variety in the various offices assigned to the governing body. By the abolition of private property the zeal and energy of ownership will be lost, for men throw most energy into that which concerns them individually. And the same objection applies to the communism of the family. The dissipation of feeling over thousands of so-called sons and daughters can only result in watering down the natural sentiment of parenthood till it has practically disappeared. Nor will Plato's scheme do away with the causes of dissension ; on the contrary, it will have exactly the opposite result ; for of the two qualities which chiefly inspire regard and affection and prevent violence and outrage, namely, that a thing is one's own and that it is an object of love, neither can exist in such a community as Plato has imagined.

Communism of property, similarly, has a specious appearance of benevolence, seeming to get rid of such evils as law-suits about disputed property and breach of contracts, as well as convictions for perjury and the like. But the real cause of these evils is not, as Plato assumes, the existence of individual property, but the prevalence of moral corruption, and moral corruption is not to be got rid of by changing the external conditions. Plato's conception of the State thus rests on a false notion of unity. Moreover, his argument that women should share the same occupation as men is based upon the analogy of the lower animals, an analogy which fails at the crucial point, for the lower animals have no domestic life.

While defending the family against Plato, Aristotle proposes certain modifications of it. The recognised duty of perpetuating the family, and thus obtaining a kind of vicarious immortality, often gave rise in Greece to over-population and pauperism ; and therefore the first problem with reference to the household is to adjust its

rate of increase to the interests of the community. The duty of the wife was recognised to be that of caring for the children and managing the household. The Greek husband was little at home, spending his time in war or in the consideration of political matters or in the exercise of his vocation. The main defect of the Greek household Aristotle ascribes to the inadequate preparation of the father for the superintendence of his sons' education. The family is at once a group of friends, and a school of training for common ends, and therefore it is of great importance to see that it is fitted for this task. Aristotle would regulate the age of marriage, the period for the birth of children and the number of children. The education of the sons should, in his estimation, be committed to the State after the sons have reached the age of seven. The household should have a definite area of land assigned to it as a means of subsistence, for a due supply of goods is a necessary condition of virtuous action. The ideal distribution of wealth is neither too much nor too little, but that which is sufficient for the highest life. The distribution of landed property must be supplemented by the limitation of population, as well as by an enlightened system of education, which will develop in the citizen a hatred of injustice. Slavery must be carefully organised, and the life of women properly regulated by law. We must avoid the mistake of Sparta in aiming only at the production of military virtue, for war is only a means to peace.

What then is the best form of society, and wherein does citizenship consist? Looking at the State as a compound, the component parts of which are the individual citizens, we may define a citizen as one who participates in those offices which are held for an indeterminate time. No doubt this definition applies only to a democracy, but Aristotle holds that "the size of the State makes any

other form of State impossible." The deliberative and judicial functions being the essential functions, Aristotle naturally regards those who discharge them as the only true citizens. Citizenship is therefore for him the exercise of sovereignty, not the right to share in the election of the sovereign. The distinction is due to the small size of the Greek State, which naturally led to a system of primary government, and we must remember that what Aristotle calls a democracy is not a democracy in the modern sense of the term. To participate in both deliberative and judicial functions requires at once ability and leisure, and these gifts are not to be found, he holds, in mechanics and labourers, who are therefore excluded from citizenship. A State may be defined as "a body of men sharing in judicial and deliberative offices and sufficient in number for a self-sufficient existence." A State so constituted will not extend the right of citizenship to its colonies. Its identity depends upon the form of the constitution, for the constitution determines who shall hold office, and develops a corresponding type of citizen. The Spartan military type, for example, is the natural-product of the Spartan constitution. We may therefore now define the State as "a compound of citizens sharing in deliberative and judicial offices, and united by a constitution which determines their place in the compound and supplies the motive for all their action." The functions of the State are the provision of food, the practice of the arts, the defence by arms, the acquisition of wealth, the worship of the gods, and the determination and enforcement of what is right and expedient for the whole community. The end of the State is higher than the means, so that those engaged in the lower occupations cannot be the equals of the others. War needs the spirit and vigour of youth, government

the experience and reflection of age. Therefore it seems natural that the same men should be soldiers in youth and rulers in age. As by this arrangement the soldiers will finally be rulers, following the plan of nature, the last stages will be devoted to the service of the gods, and the rulers will become the priests of the community.

The education proposed by Aristotle is fitted in his estimation to produce the best type of citizen. The object of youthful education is to develop a high type of character, and hence stress is laid upon those influences that are fitted to mould the will insensibly, such as music and literature. Art is for Aristotle the means of reaching the moral sense. There are three stages in the development of the soul: that of natural disposition, that of habitual temperament, and that of rational self-determination. As to the first, the legislator, if he is to attain the best results, must have as his material a Greek population, and marriage must be regulated with a view to the improvement of the offspring. Habitual temperament, again, is especially amenable to the influence of education. In youth feeling and sentiment are predominant; the mind is then quick and responsive to both good and evil, and habits may be formed which under proper treatment will develop into methods of rational self-direction. The young should therefore be early trained in habits of courage, temperance and other virtues. At a later time an appeal should be made to the reason, and instruction given in mathematics, logic and philosophy. Thus the goal of education may be said to be the development of rational freedom. As reason is both theoretical and practical, education must develop the mind by the contemplation of truth, culminating in the contemplation of the divine nature. Education must be conducted by the State, and as the end is one, so the education should be one.

Now that we have obtained a general notion of Aristotle's theory of the State, it will be well to form some estimate of its value, and to see why the subsequent history of man led beyond it. What is characteristic of the City-State of the Greeks, and especially of Athens, is its marked individuality. The Greek made two demands upon himself: firstly, that he should govern himself, and secondly, that he should govern himself under obedience to law. These two demands explain the struggle for self-government and the inextinguishable opposition to the permanent rule of a tyrant, or of an oligarchy. The problem of politics is to bind men together in a free and orderly community, just as philosophy endeavours to discover the fundamental principles by which man's experience may be welded into a whole. It was therefore natural that the same people who originated philosophy should also be the first to solve the problem of the State. The transition from the earlier to the later form of philosophy occurred through the influence of the Sophists and Socrates, and upon the methods and principles suggested by Socrates was based the ethical and political philosophy of Plato and Aristotle. The summing up of the essence of the State was made by Plato and Aristotle just at the time when the characteristic political life of Greece was drawing to a close. This, indeed, is in accordance with the general character of philosophy; for, as Hegel says, "the owl of Minerva does not begin its flight till the shades of evening have begun to fall."

We cannot expect that the *Republic* of Plato or the *Politics* of Aristotle will give such a treatment of political philosophy as can be employed literally by a modern State in solution of its own peculiar difficulties. The State of which these thinkers spoke is one that was destined to disappear with the wider experience of humanity, and after

an interval to be replaced by the modern Nation-State. The speculations of Aristotle were based upon the experience of political life which he as a Greek enjoyed, and the interpretation of it that he gave was inevitably coloured by the presuppositions of the Greek mind. All that he could do was to attempt a rehabilitation of the City-State, by reference to its ideal as he conceived it. The interpretation of the State by Aristotle thus throws the clearest light upon the forces at work in it. The fundamental idea of Greek political philosophy was that the development of man's intellectual, artistic and moral nature is only possible by the concentrated activity of various minds all working towards a common end. There must be unity of aim and unity of life. This idea is expressed by Aristotle in the form that the State is "natural," that is, it is based upon the necessary wants of men and naturally develops in fulfilment of those wants. What is virtually the same idea is expressed by saying that the State is "prior" to the individual and the family, meaning that the individual cannot possibly realise his true self otherwise than in society, or, as Aristotle puts it, that man is formed for the life of the City-State. Every man in the community, it is implied, whether he be statesman, soldier or workman, has a certain distinctive type of mind which fits him for the discharge of a special task, and it is through the harmonious operation of the different members of society in subordination to the common good that the highest life is capable of being realised.

While there is an undoubted contrast between the ancient and the modern State in regard to the constitution of society, we must not suppose that there was nothing in the thought of ancient times which in any way anticipates modern ideas. In the very age of Plato and Aristotle, we find the prevalence of ideas that have been made the

foundation of modern theories of the State. Thus it was supposed by the Sophists that man's nature was to be discovered, not in the maturity of his development but in his first or original state—a conception similar to the claim for natural rights expressed by Hobbes and others. The Sophist further held that law and political unity were the product of an arbitrary convention, and the Cynics maintained that man should be free from the trammels of any single State. In marked contrast to these individualistic views Plato and Aristotle assume that the City-State is the necessary condition of the highest life. No doubt the segregation of the hewers of wood and drawers of water is necessary, but this separation is to their mind indicated by the fundamental distinction of the true ruler and the born subject, and the highest results cannot otherwise be obtained. But, starting from these presuppositions, they go on to demand that the citizen should not consider that he is any chartered libertine, free to do whatever seems good in his own eyes. There must indeed be freedom to live the higher life without interference from either neighbour or State ; such freedom, however, does not mean licence, but the subordination of all personal motives and conduct to the laws of the community. In such subordination there is no real loss of freedom, but on the contrary the realisation of the common will, which is on the whole the rational will. With whatever modifications the ideas of Plato and Aristotle must be accepted, there can be no doubt that Greece set the example to the world of a polity in which the freedom of the individual was shown to be compatible with the authority of society. The good of man cannot be secured by giving free play to the selfish desires of the individual. "Men," says Aristotle, "should not think that liberty consists in refusing to submit to the constitution." True liberty is found in obedience to the

laws. "Many practices, indeed, which appear to be democratic are really the ruin of a democracy." In order to realise true liberty there must be a personal authority in government, while the magistrate must be the embodiment of an impersonal factor, expressing in his regulations that public opinion and customary law which reason demands. Hence Aristotle demands the proportional equality of every citizen against every other; for "when men are equal they are contented." Speaking of the expulsion of Tyrants from Athens, Herodotus had said: "It is plain enough from this instance that equality is an excellent thing; since even the Athenians, who, while they were under the rule of tyrants, were not a whit more valiant than their neighbours, no sooner shook off the yoke than they became decidedly the first of all" (v. 78). To the people as a whole, as Aristotle says, must be ascribed the office of final judgment on official conduct, since the opinion of the whole people is preferable to that of any expert. And if the will of the people is to be embodied in the laws of the State, there must be an opportunity for them to rise to the highest level of moral and intellectual excellence.

It is then in accordance with the political ideas of the Greek that each State should be independent of all foreign domination, and that each individual should be free to live the highest life without vexatious interference from others. No State, as Pericles said, can suffer dictation from another State; it must be free to develop itself in its own way; and the members of each State must be free from dictation by their fellow-citizens. The Athenians, as Aeschylus makes his chorus in *The Persians* say, "call no man their master." Each man, it was felt, has a right to mind his own business, and the only possibility of preserving this right is by each having a share in public affairs.

Even if the result is less successful than government from above, the free man prefers government at his own hands. As a matter of fact, however, tyranny and oligarchy* were rejected because they were found to be incompetent and selfish forms of government.

The idea of liberty also implied more than the absence of foreign domination and of interference of one citizen with another. Liberty is not to be justified by the mere absence of interference, but because it is the condition of the higher life. The liberty of Athens resulted in the production of artists, poets and philosophers in the marvelously short period in which she had real political liberty. No other people has produced in so short a time such great achievements in architecture, sculpture, drama and philosophy. Here, indeed, as Matthew Arnold says, "is the great spectacle of the culture of a people. It is not an aristocracy leavening with its own high spirit the multitude which it wields, but leaving it the unformed multitude still ; it is not a democracy, acute and energetic, but tasteless, narrow-minded and ignoble ; it is the lowest and middle classes in the highest development of their humanity that these classes have yet revealed. It was the many who relished these arts, who were not satisfied with less than these monuments."

Much as we have to learn from this Athenian conception of liberty, we have also much to reject. Athens preserved its liberty for only some fifty years, and preserved it at the expense of a violation of the fundamental rights of humanity. It was a civilisation based upon slavery and contemptuously rejecting the claims of women to share in the government of the State. And Athens, which demanded freedom and independence for herself, forgot her ideal in dealing with other States. In any case the attempt of Plato and Aristotle to preserve the City-State

was foredoomed to failure. With the advent of Alexander the Great, the independence of the City-State came to an end, and the political philosophy of the great Greek time almost ceased to be understood. No political theory indeed was based on the character of the Macedonian Empire, but the fact of its existence had so enlarged men's vision beyond the narrow bounds of the city that it prepared the way for a new conception of society, a conception which was expressed in the language of the Stoics as the "city of the world." The individual, finding no outlet for his activities in public life, had to fall back upon himself, seeking for a satisfaction that he could not obtain outwardly in the self-centred spheres of morality and religion. This was the point of view of Stoicism and Epicureanism.

While the great Greek thinkers have not drawn a distinction between Society and the State, being obsessed by the idea that the whole regulation of life is the work of the legislator, it is worth while remarking that in Aristotle we have the indication of such a distinction in the way in which he connects the economic relations of the community with the family. It was, however, only after the decay of the City-State that the organisation of subordinate groups was at all clearly perceived. The appropriation of all political functions by the Roman Empire naturally shut out the individual from any direct political relations, and this forced him back upon himself and led to the growth of various corporations in which some substitute for his vanished political power was felt to be necessary. The modern State, in accordance with the general principle that below the supreme organisation of the State proper there are other forms of organisation in which the general will is partially expressed, displays a degree of specialisation that the ancient City-State did not allow. Not only has the distinction between Church and State come to

be recognised, but there are vast numbers of subordinate associations which are essential to the perfection of the whole. It is not that the wider organisation of the State has decayed, but that means have been devised of expressing the common will in various corporations which were excluded by the relatively simple character of the City-State.

CHAPTER THIRD

THE WORLD-STATE, THE ROMAN EMPIRE AND THE MIDDLE AGES

THE establishment of the Macedonian Empire resulted in the loss of Civic freedom, and the individual, finding no outlet for his activities in external life, had to fall back upon himself. The representatives of this new point of view were the Stoics and Epicureans. These schools do not show that high power of philosophical speculation which distinguishes Plato and Aristotle, but they indicate an advance in the central idea of their systems, the idea of self-conscious personality. It is true that they are more one-sided than their great idealistic predecessors, but their one-sidedness was a necessary stage towards a deeper reconciliation of the reason and the passions than had been attained by Plato and Aristotle. They make that division between private and public life which strongly contrasts with their identification in the great days of the City-State. There was therefore needed some new rule for the individual by which he could rationalise his life. In the destruction of the national religion the philosophies of the Stoics and Epicureans took upon themselves the task of consoling and advising the individual how to live in an alien world. He must not seek for happiness in the active life of the State, but he may find peace in his own soul.

What is characteristic of the philosophy of the Stoics is the principle that there is something beneath all the differ-

ences of men, whether individual or national, that unites them with one another simply as men. Their watchword was the watchword of humanity : *Homo sum, humani nihil a me alienum puto*. While he keeps aloof from society, the Stoic regards himself as belonging to the great State of the World, comprising gods and men. This aspiration after a world-community did not become an actuality, but it tended to break down the barriers between one man and another, one nation and another. No doubt this breadth of sympathy did not lead to active efforts for the good of humanity, but at least it softened the bitterness of national and personal prejudices. Though the Stoic was indifferent to the law of the State, he did not regard himself as absolved from all law, but on the contrary as subject to the law of the universe, the law of reason, of which the whole universe is a manifestation. Living in this faith he cultivated an attitude of wide impartiality and of complete indifference to changes of fortune. It was the firm grasp of the central principle that the world is rational, and therefore identical with what is deepest in man, that gave to Stoicism its enormous influence over the mind of the ancient world. It is reason that binds man's whole existence into one and subordinates all his other powers to itself. The impulse of a rational being is to satisfy self in its universal nature. Hence man must be as little affected by his own fate as by the fate of others. It is the same self that thinks and wills, perceives and desires. No doubt man may be led into intellectual error or moral guilt by the passions, but this is due to his not being faithful to his true self. The first aims of nature are health, wealth and honour, and the like ; but reason as it awakens within us makes us think not of these, but of life as a whole, and now we seek to realise the law of reason. Duty must be done, in other words, as Kant afterwards maintained, for duty's sake alone.

We must act in harmony with the rational nature of the universe, and in doing so we shall come to harmony with our own true self. At the same time the Stoics were unable to reconcile this belief in the rationality of the world with their belief in the actual world of their experience. Marcus Aurelius was just as sure of the perfection of the universe, as he was dismayed by the disintegrating forces working in the imperial system. All that he could do was to stand and die at his post in spite of the evil forces around him.

The ideal of the Stoics that men are of kindred nature is a permanent contribution to the progress of the world. It is true that we are still far from a practical realisation of the "parliament of man, the federation of the world," but at least the conscious antagonism of nation against nation is something for which we feel that we must apologize. Nevertheless the conception of a World-State as held by the Stoics is too vague and powerless to serve as a permanent ideal of mankind. We can only have a true World-State when we have developed to their utmost the possibilities of each Nation-State, just as we cannot have a true Nation-State without the institution of the family and of private property, with the various industrial and commercial relations which they imply, and without that free play of individuality which gives rise to decentralised forms of association. A World-State based upon the combination of variously differentiated Nation-States is a possible ideal; a World-State which abolishes all the differences of race and nationality and individuality is an empty ideal. The fundamental mistake of the Stoics is seen in their doctrine that the highest good of man is in no way dependent upon the interests of the social life. This drives the individual back upon himself, and makes him indifferent to the ties of kindred and friendship, family and nation. The Stoics were weak where Plato and

Aristotle were strong, namely, in not seeing that the consciousness of self as a spiritual being cannot be separated from the consciousness of self as a member of society.⁶ To fall back upon an abstract self without positive relations to others is to overlook the profound truth of Aristotle's saying that man is a "social and political being." It is true that the manifold relations of the individual life have only a relative value, and that no single interest must be allowed to absorb the whole self; but to say that man is greater than any individual interest is not to say that he is complete in himself apart from all individual interests. It is not true that man should be indifferent to all special interests because he must not allow himself to be completely immersed in any one. It is not true that the good of man can be realised in a merely internal state of the soul which excludes the family, the State and the various social relations into which men enter with each other. The progress of man consists, in one of its aspects, just in the multiplication of forms of association subordinate to the State, and thus in the more perfect unification of the State itself. The ideal State cannot be antagonistic to the actual State; it can only be realised by the gradual expansion of actual States, an expansion which implies at the same time the internal development of each particular State. When the internal organisation has reached a fair degree of perfection, and has been purged of its narrow vision and its concentration on its own selfish interests, the way has been prepared for a wider form of organisation. Whether the ideal of an actual World-State is realisable, and if so how, we shall have to consider later; at present it is enough to say that even in the form of the consciousness of each State as working for the good of humanity as a whole, it is a valuable ideal, and for it we have largely to thank the Stoics. It was much that in the decay of the

City-State the Stoics insisted that after all the City-State was not in harmony with the ideal State. This at least made men seek for improvements in the actual forms of society; and it prepared the way for the positive universal conception of Christianity, which looks beyond the divisions of men and of nations to an underlying unity of nature. The old bonds of society were burst, and a deeper view of humanity was the condition of a new form of society. The recognition by the Stoics that all men have the same fundamental nature was an idea that inspired the Roman lawyers to convert a narrow legal system fitted only for Rome into a system of universal legislation that has formed the starting-point for the jurisprudence of all civilised peoples. It also prepared the way for a universal religion. Thus Stoicism really helped to effect the transition from the ancient City-State to the modern Nation-State, and to suggest the ideal of a World-State which shall realise itself by means of the complete organisation of the various Nation-States.

The Roman people proved themselves to have an exceptional military genius and a remarkable sense of legal and constitutional expediency, but they never displayed any great power of speculation on political subjects. Before an analysis of its government was attempted, Rome was already the strongest power in the world, having succeeded in establishing domination over the whole circle of Mediterranean States. The first thinker who attempted such an analysis was Polybius, a Greek, who was held in Italy as a hostage for sixteen years, and who in this way obtained an intimate acquaintance with the Roman constitution. In his history of the Roman Republic, he seeks to set forth the principles of government under which its eminence had been achieved. This work had an important influence

on later political theory. Polybius claims that in the Roman constitution there are three organs which embody respectively the principles of monarchy, aristocracy and democracy. The consuls represent the monarchic aspect of the constitution, the Senate is essentially aristocratic, and the popular assemblies are clearly democratic. The consuls, before leading out the legions, remain in Rome, and are supreme masters of administration, all other magistrates except the tribunes being subordinate to them. In the preparation for war and in the conduct of a campaign they have all but absolute power ; they have the right to inflict punishment on all who are under their command while on active service ; and they have authority to spend as much of the public money as they choose. On the other hand the Senate controls the supplies for the armies of the consul, determines whether or not he shall retain command at the expiration of his term of office, and decrees or withholds the triumph which is the utmost goal of his ambition ; while the *comitia* may hold him responsible for his conduct and may always have control over the question of peace and war. The Senate has immense power, but it is obliged in public affairs to respect the wish of the people, and it cannot put into execution the penalty for offences against the Republic that are punishable with death unless the people first ratify its decrees. Even in matters directly affecting the Senators the people have the sole power of passing or rejecting a law. But most important of all is the fact that if the tribunes impose their veto the Senate are not only unable to pass the decree but cannot even hold a meeting. Now the tribunes are bound to carry out the decree of the people, and therefore the Senate stand in awe of the multitude, whose feelings it cannot afford to ignore. Finally, the assemblies are subject to a restraint in their activities, firstly because contracts are given out

by the censors for the repair or construction of public buildings throughout Italy; there is also a collection of revenues from many rivers, harbours, gardens, mines and lands, in short everything that comes under the control of the Roman government—and in all these the people at large are engaged. Secondly, every citizen is likely to come sooner or later as a soldier under the absolute power of the consul, and hence there is an indisposition to reckless opposition to the authority of the senate and consuls, for fear of reprisals.

This analysis of the Roman system is interesting as the first formal exposition of the principle of check and balance in constitutional organisation, the favourite idea of the eighteenth century. Polybius favours a mixed constitution in which there are three distinct organs, each embodying a definite principle and acting through self-interest as restraints upon the others. Thus, while Plato and Aristotle sought to combine in one system the principles peculiar to the various simple forms of constitution, Polybius seeks to secure the same end by the reciprocal antagonism of the different organs.

There is a certain irony in the construction of this supposedly perfect Roman constitution from the fact that it was hardly formulated by Polybius when the agitation of the Gracchi led to its destruction. The only writer who tried to prop up the constitution, which was obviously falling in pieces, was Cicero, who in his *De Republica* and *De Legibus* sought to induce the Romans to recur to the older methods of government. His attempt was doomed to failure, but it had an influence upon imperial lawyers and early Christian writers. Cicero assumes the essential idea of the State to be the Commonwealth. "The State," he says, "is the whole body of the people. The people is not, however, any group of men brought together

but a multitude united by a common sense of right and by a community of interest." The primary cause of union is not, as Polybius imagined, the consciousness that isolation means weakness, but rather the fundamental social instinct of man. It is this instinct, Cicero holds, that leads to the institution of government in order that the unity may be preserved. Each of the three primary forms of government—namely, monarchy, aristocracy and democracy—has certain advantages, but each contains within itself the germ of corruption, which produces a cycle of revolutions. Like Polybius, he concludes that we must have a combination of all three forms, embodying the best features of each, and avoiding their defects. On this principle Cicero seeks to show that the Republican system is a perfect example of the ideal mixed form of constitution. The reason for the abolition of monarchy was that the king degenerated into a tyrant; the patrician aristocracy was forced to yield to the restraint of the plebeians because it was overbearing in its monopoly of power; and the troubles of public life since the days of the Gracchi he regarded as due to an exaggeration of democratic influences.

In the *De Legibus* Cicero seeks to determine the relation between right (*jus*) and law (*lex*). His argument is that the former is in all cases dependent upon and subordinate to the latter. The universe, as the Stoics said, is a manifestation of the divine reason, which in man becomes self-conscious, and the ultimate principles of right and justice are in harmony with the laws by which the divine government operates. These principles are capable of being apprehended by all men in virtue of their rational nature, for "no one is so like to himself as all are like to all." Now, "to whomsoever reason is given by nature, so also is right reason; hence also law, which is right reason in commanding and forbidding; and

if law, also right ; and as reason is given to all, so right is also given to all." The origin of natural rights, the *jus naturæ*, is therefore to be sought in the law of nature, the *lex naturalis*. Nor is it true that human rights are based upon self-interest, or that the diversity of institutions and laws implies diversity in right and justice. It is only by courtesy that local and temporary enactments are called law (*lex*), for those enactments which are contrary to the dictates of reason have no binding force. This conception of a law of nature as the source of all obligation came to have great influence on political speculation fifteen centuries later.

The Roman Republic gave place to the Empire, and the overmastering might of the latter destroyed all independent political life in the subject peoples, completing the work that the Macedonian conquest had begun. There was indeed a great development of municipal law and administration,—a thing by no means unimportant in the political history of man—but anything like independent nationality had disappeared. Even under emperors like Augustus the evils of a despotic government were inevitable, and from Commodus to Constantine there was an almost unbroken succession of rulers distinguished for little but unbridled licence and incapacity. In any case the political development of a people under a military despotism is impossible. It is true that under the Roman Empire a specious appearance of republican institutions was preserved, but these were merely a thin disguise behind which a hard military despotism barely concealed itself. The emperor had gathered into his own hands all the offices that in the days of the Republic had been distributed among the various magistrates. Popular or representative government there was none, and the Senate was

merely the subservient tool of the emperor's will. As *pontifex maximus* he was the supreme arbiter of sacred law; he was defended by the irresistible might of the legions, of which he was absolute master; his wealth, derived from the richest and most important provinces, was enormous; and his decrees and rescripts had the full force of law.

Under these conditions it is not to be expected that there should be anything like a free discussion of the foundation of society and the State. At the end of the second century Ulpian lays down the principle that the emperor's will is law, though only because he has been endowed with this power by the will of the people, and he is himself bound by the law from which all his authority proceeds. But this limitation had very little real influence, since the power once conferred could not be withdrawn or diminished, and the power itself was practically unlimited. The marked distinction drawn by Ulpian between the *jus naturae* and the *jus gentium* had a great influence on subsequent thought. He agrees with the Roman jurists of the second century that while the regulations of society never reach the stage of perfect justice, they at least tend to apply to actual conditions principles of absolute obligation. The Stoic conception of a law of nature was employed in determination of the principles applicable to all men, with the result that we find Ulpian declaring that "so far as pertains to natural rights, all men are equal"; that by "nature all men are born free"; and that "slavery is an institution contrary to nature." But these suggestions had no immediate influence upon Roman jurisprudence, since alongside of them it was held that it is the will of the prince which makes law; *quidquid principi placuit legis habet vigorem*. Still, though the theory of natural rights had no direct effect, the opposition of positive law

and natural rights was bound in course of time to exert a beneficial influence by suggesting that the former was not in harmony with what is ideally right ; and after many days this contrast forced men's minds, especially when supplemented by the Christian conception of the identical nature of all men in the sight of God, to face the question whether that which in positive law is incompatible with the law of nature was not in disharmony with the true principles of legislation.

The lawyers who compiled the Institutes of Justinian follow Ulpian in distinguishing the *jus gentium* from the *jus naturae*, and indeed they differ very little from him in their general conceptions. The law of nature, they hold, is divine and immutable, forming the ideal standard of right conduct, and from it the *jus gentium* is distinguished mainly because there are institutions which, though they are common to various nations, are not "natural" in the full sense of the word. These jurists also held that all authority ultimately comes from the people.

The political theory of the Christian Fathers from the second to the seventh centuries is in essence identical with that of the Roman lawyers of the same period. They start with the idea of natural law as the law of man's reason—a conception first clearly expressed by St. Paul—and thus conceive of human nature as something transcending all distinctions of rank and station, and even of nationality. Slavery is regarded by them as the result of the Fall of Man, which has made the conventional institutions of society necessary. It is at once a punishment and a remedy for sin. The Fathers were no more prepared to condemn slavery as unlawful than the jurists or philosophers, but its implicit contradiction with the essential principles of Christianity worked along with the influence of Stoical lawyers to ameliorate the condition of the slave and

ultimately to bring slavery to an end. The normal type of Christian thought is that which is expressed by St. Augustine, when he declares that man is by his very nature impelled to enter into social relations. In the state of nature prior to the Fall men freely obeyed the wise, and were so generous and humane that no one was allowed to want. The general theory of government of the Fathers is that the Ruler is the representative of God on earth, and as such is entitled to the obedience of his subjects, the only difference of opinion being as to whether he must be obeyed under all circumstances. The direct reference of the power of the Ruler to God as its source is the point in which the Fathers differ from the legal writers, who traced all authority back to the people; and the history of mediaeval political theory is largely a history of the contrast of these two doctrines. Justice, it was held by the Fathers, is not created by the civil power, for beyond it is the ecclesiastical, which is not so much within the State as it is a principle of authority parallel to and independent of it.

Lord Bryce has shown conclusively that the Roman Empire did not cease with the extinction of the Western Empire in 476, but continued to exist, or at least was believed to exist, for the next thousand years. The imperial titles and imperial traditions remained unbroken down to the days of the Frank conquest, when Charlemagne assumed the title of Roman Emperor. This was the first time that a man of avowed Barbarian blood had ventured to claim the imperial rank, and to reign not only as King but as Caesar over the whole of his dominions. The power of Charlemagne was thus extended over large provinces that had been wrested from the Roman Empire, and over vast regions which the elder Caesars had never possessed.

With the exception of England, Charles was either the immediate sovereign or the suzerain lord of all Western Christendom. With the claim to supremacy as Emperor, there was combined the Germanic ideas of freedom and law. A law became valid only when it received the sanction of the monarch, but by custom the counsel and consent of the assembled nobles, both ecclesiastical and secular, was required. The approval of the people, on the other hand, was usually dispensed with, except in matters that concerned the organisation of Church or State, or the rights of the people themselves. Though nominally he was only the head of the State, Charles enforced among the clergy the recognised Christian discipline, while the hierarchy exercised a marked influence upon political institutions.

The political theorists of the ninth century seek to harmonise their own Germanic conceptions with the teachings of the Fathers. The Ruler was held to receive his power from God, and rebellion against his authority was severely condemned. The King, however, is under obligation to carry out the law, consisting of traditional tribal law, the legislation of the Roman Empire, which obtained in many districts, and the laws that the King or Emperor might issue with the consent of some or all of his subjects. There seems no reason to think that even Charlemagne claimed to be the sole legislator in his own right, and as the century advances we find an ever more decided assertion of the limited and conditional character of the royal authority, probably as a result of the civil wars, by which the power of the Ruler was lessened. Hereditary succession was the custom, but it had to be confirmed by some national recognition or election. The deposition of Louis the Pious in 833 shows that the King held his throne on condition of discharging his obligations to the general

satisfaction of his subjects. There was great difficulty in determining the respective spheres of Church and State. It was held to be the duty of the King to superintend the conduct of the clergy, even in purely religious concerns; he presided at the Synods; and he had considerable power in the appointment of ecclesiastics to office. On the other hand, the spiritual authorities imposed the severest penalties for violation of the law of the Church, and the Pope and the Bishops exercised great authority in the deposition of King or Emperor.

Feudalism, though it was not the most important element in the structure of mediaeval society, was a new element in civilisation. Beginning in the tenth century, it reached its final form in the latter years of the thirteenth century. Feudalism, as is well known, is a system of personal relations, of land tenure, military organisation, judicial order and political order. The great systems of national organisation were really independent of it. In Germany, what triumphed was not feudalism but territorialism. It is to a large extent true that mediaeval life was dominated by a chivalrous devotion and loyalty, but there was between the lord and his vassal a relation of contract involving mutual obligations. The main elements in the relation were *Comitatus*, *Commendatio* and *Beneficium*. By the first a band of followers devoted themselves to a leader; the second was the process by which a hitherto independent person became the dependent of some powerful chief in return for the protection afforded him; while the third was a system of land tenure on the basis of military service.

In this period the law was primarily custom, and two tests were applied to determine whether a custom was legal; the custom must be general, and it must be con-

firmed by a judgment of the Court. If the lord can show that the vassal has failed to discharge his obligations, the vassal will forfeit his fief; if the lord can be proved to have broken his faith, the court will free the vassal from his obligations, so that he will be entitled to hold his fief without service for his lifetime. No vassal can be deprived of his benefice without regular proof, and the case must be tried by a Court composed of the peers of the vassal or by the Court of the Emperor. Only the laws promulgated by the King after deliberation with the Council of his great men and approved by the custom of those concerned has the force of law. Thus feudalism was a limitation of autocratic authority. It was, in fact, after the dissolution of the Carolingian Empire that Feudalism arose. The invasions of the Northmen and the Magyars led to the destruction of a strong central authority, and men had to turn for protection to the nearest power. The result was that the relation to the central authority was weakened. While in Germany the process of national consolidation was overpowered by the territorial principle, in England and France, and ultimately in other European States, national liberty triumphed. As early as the eleventh and twelfth centuries the principle of a direct relation between all free men and the King began to be established. In doing homage to a lord, the supreme authority of the King is reserved, so that the vassal must follow the King even against his lord. The normal view was that the authority of the King was derived from God. Such an authority, it was held, is needed to suppress wrong and to maintain righteousness. The functions of the Ruler are to maintain justice, to suppress vice and crime, and to maintain the Catholic faith. These principles were recognised alike by Imperialists and by Papalists. The general view of the

former was that once elected the King cannot be deposed. The normal view, however, was that where there is no justice there is no King, but only a Tyrant. John of Salisbury held that the Tyrant has no rights against the people, and may be justly slain. The principle of hereditary succession was recognised, but never without the recognition or election of the great men of the community as a whole. The idea of a strictly hereditary right of monarchy is not a mediaeval idea. In France and England some form of election was always a regular part of the constitutional process of succession to the throne. In the Empire the succession was always elective. The principle that the legislative action of the Ruler was limited by the counsel and consent of the great men was expressly asserted by so great an Emperor as Barbarossa. Manegold attacks the tradition that a Ruler has an absolute divine right; if the King violates the agreement under which he was elected, the people, he held, may justly be regarded as freed from their allegiance.

There was in the mediaeval period a gradual growth of the idea that the origin of the State is to be found in a contract of subjection made between the People and the Ruler. The individual was therefore held to be the source of all political legislation. There were, however, it was maintained, natural rights which were unaffected by the contract and could not be impaired by the State, a principle expressed in the maxim, *salus publica suprema lex*. The idea of sovereignty was transferred from the Ruler to an Assembly of the people, though it was held to be limited by natural law. The notion gradually grew that the State is the one single Power which stands above the individual. This theory at once came into conflict with the claim of the Church to have equal or even superior power, but in the fourteenth and fifteenth centuries

the way was prepared for the absorption of the Church in the State.

The ancient idea of the State as the highest form of community, when once it was accepted by the mediaeval theorist, raised the difficulty as to which of the existing communities is supreme. The lawyers declared that the Empire is the one true State, but they went on in defiance of consistency to apply the conception of the State to much smaller communities. The philosophical theory, on the other hand, started with the assumption that there cannot be more than one State, while below the State are mere communes. Gradually the term State was applied only to a community which does not recognise any external superior. The idea of a World-State had faded into an insubstantial shadow, and all smaller groups were brought under the head of corporations or communes. This did not deprive the latter of a certain independent life of their own and the possession of rights as subject to the demands of public law. Nevertheless the tendency was to exalt the sovereignty of the State as the only representative of the common interests and the common life of the community. No room was left for feudal or patrimonial powers. All subordinate power was to be delegated by the sovereign power, the State. The privileges enjoyed by the corporations were regarded as bestowed upon them by the State, which in the interest of the public might revoke them. Thus mediaeval thought prepared the weapons for that combat between the Sovereign State and the Sovereign Individual which fills the subsequent centuries. As time went on the ideas of Natural Right and Freedom more and more lost their meaning, and it required the type of experience furnished by the modern Nation-State before the original meaning could be restored and widened by the enlarged experience of centuries.

Political speculation after the growth of Nation-States, begins again, feeling its way towards an explanation of a self-governing society by means of the inadequate ideas of contract, force, representation in a legal "person," and kindred notions.

In the twelfth century there were two writers who exercised a certain influence on political theory. These were St. Bernard and John of Salisbury. St. Bernard protests strongly in his work *On Reflection* (*De Consideratione*, Libri V) addressed to Pope Eugenius III. against the interference of the Church in administrative and non-spiritual affairs. It was not in harmony with his lofty office that so much of the time and energy of the Pope should be occupied with such worldly matters as the extension of the Church's territorial possessions. "What," he exclaims, "is more slavish and unworthy, especially in the chief pontiff, than to sweat every day and almost every hour over such things!" It may be said that such interference is demanded in the interests of the Church. "And indeed," says Bernard, "law resounds every day through the palace; but it is the law of the Justinian, not the law of the Lord." The proper work of the Church is to absolve from sin, not to divide estates. "Why do you rush into another's field? Why do you set your sickle to another's crop?" The Pope should limit himself to his pastoral duties, leaving to the State the function of maintaining and protecting the Church. This is also the view of John of Salisbury. "The prince," he says, "is indeed the servant of the priesthood, and performs the part of the sacred duties which seems unworthy of the hand of priesthood. For while every duty of the divine laws is religious and holy, nevertheless that of punishing crimes is inferior and seems in a way to represent that of the executioner!"

The twelfth century was the period of the special intellectual activity of the Scholastics, by whom philosophy was employed solely in support of the accepted doctrines of the Church. The Aristotelian logic was the chief source of the rigid syllogistic method that is so common in their writings. The dogmas of the Church being regarded as infallible, the main activity of thought was concentrated on the attempt to reduce them to syllogistic form, and to support them by references to Scripture and to the Fathers of the Church.

The greatest of the Scholastics was Thomas Aquinas, who employs all his dialectical skill in the attempt to show that the Church has both temporal and spiritual power, and must be represented by the Pope. Authority and reason he regards as independent sources of knowledge. By the former are revealed the mysteries of the Trinity, the incarnation and the creation of the world, which human reason could never have discovered of itself, though it is capable of establishing the existence of God and providence from the nature of the world. Man being a social being, as Aristotle said, even had there been no Fall he would still have found it necessary to unite in the order of the State; and the State by its very nature demands that there should be a Ruler, whose function it is to secure the interests of all the citizens, and who is distinguished above others by his ability and knowledge. The laws of the State are special ordinances based upon the law of nature, which embodies the distinction between good and evil. Law does not cover the whole life of man, but only commands those things that are essential to the common weal. The commands of the ruler must be obeyed except when they are contrary to the will of God, or when they exceed their proper sphere. Divine law has been revealed in order that man should learn how he

may obtain eternal happiness, and this law is under the jurisdiction of the Church, the representative of which is the Pope, who is the supreme authority in all matters of faith. If the Church were not so represented, there would be no unity of faith. Christians must obey their earthly rulers, because such obedience is essential to the order and stability of society. Even if the prince rejects the Christian faith, his subjects are not absolved from obedience, since divine law does not destroy human law. The Church, however, may find it necessary to release the subjects of an apostate prince from their allegiance, since he may by his authority destroy the faith. Excommunication is thus a legitimate weapon in the hands of the Church. As to other apostates, Thomas held that they must be prevented from obstructing the faith, though they cannot be compelled to embrace Christianity. Intercourse with unbelievers may in certain cases be permitted, since it is possible that by such intercourse they may be converted to the true faith. The heretic is not to be condemned except after a "first and second admonition," as Scripture enjoins, but should he prove stubborn and unyielding in his heresy, he may be excommunicated and handed over to the earthly court to be put to death.

Hardly had St. Thomas passed away when the old controversy of the ecclesiastical and secular powers was resumed. This controversy was brought to a head by the quarrel between Pope Boniface and King Philip the Fair. The claim put forward in behalf of the Pope was that his power extended to temporal as well as spiritual concerns, and that the King was subject to him in both respects. The ultimate ownership of all property, it was further held, is in the Church, and therefore those beyond the fold of the Church have no just title to it. At a later time Augustinus Triumphus went even further and

maintained that as Vicar of God the Pope can at his discretion deprive private citizens and even kings of their property. Meantime the papal prestige was declining, and we are not surprised to find its pretensions attacked in the most vigorous way. The jurists of the fourteenth century, by arguments drawn both from the canon and the civil law, and by appeals to the writings of Aristotle, helped to consolidate the national monarchies, which were gradually extending their jurisdiction at the expense of the Church. The growth and prominence of the French monarchy under the strong hand of Philip the Fair threw doubt on the mediaeval doctrine of the universal dominion of the Emperor, which, as a matter of fact, had become mere fiction. The King, it was held, "holds and possesses his kingdom immediately from God alone" and his right is a divine right. The Pope, as Peter Dubois argues, should not intermeddle in political affairs, but should confine himself to his proper task of saving souls.

While John of Paris and Peter Dubois wrote in support of the sovereignty of the French king, Dante came forward in defence of the Imperial interest. His *De Monarchia* is in substance a plea for that secular world-empire which after the days of the Hohenstauffen ceased to correspond to facts. Still his treatise is a clear and impressive statement of the imperial idea. The highest good of man, it seemed almost self-evident to him, can only be secured by the subjection of all mankind to the rule of a single monarch, "a Prince who is over all men in time, or in those things which are measured by time." The spiritual interests on the other hand must be the concern of the Pope, the divinely appointed head of the Church. This view Dante regards as having the support of Aristotle, "il maestro di color que sanno."

For does not "the philosopher" say in his *Politics* that "where a number of things are arranged to attain an end, it is fitting that one of them should regulate or govern the others, and that the others should submit." Of course this is a perversion of Aristotle's argument, which was put forward to show that the Greek should be the master of the Barbarian, and is as far as possible from giving countenance to the idea of a world-ruler, which, as we know, was entirely foreign to Aristotle's whole conception of the State. More germane to the subject is Dante's argument that peace and tranquillity can only be secured by submission to a single supreme authority. It is true, he says, that the family, the village, the city, and the nation are all under authority, but so long as we have no wider principle of authority wars and conflicts can never cease. There must then be one supreme arbiter of all men to settle disputes, namely, an emperor. Only in him can we expect to have an authority who by his position is raised above all merely personal desires, and actuated solely by the desire to see perfect justice administered to all men. Moreover, it is only in a universal empire that we can expect the freedom of men to be preserved. "Democracies, oligarchies and tyrannies drive mankind into slavery, as any one who goes about in them soon learns." Dante does not mean that all legislative power should be in the hands of the emperor, but only that "cities, nations and kingdoms should be governed by a rule common to them all, with a view to their peace." And the emperor must be Roman, for Rome is the divinely appointed ruler of the world. The justice of the claim is shown from the fact that, neglecting her own interests, Rome has always since the days of the "divine Augustus" sought to promote universal peace and liberty. Her government might well be called, in the words of Cicero, "not so much an

empire as a protectorate of the whole world." It is the will of God which has enabled Rome to extend her sway so widely. With this divinely appointed agent of God a faithless Church has dared to interfere. "It is those who profess to be zealous for the faith of Christ," he indignantly exclaims, "who have chiefly 'raged together' and 'imagined a vain thing' against the Roman Empire; men who have no compassion on the poor of Christ, whom they not only defraud as to the revenues of the Church, but the very patrimonies of the Church are daily seized upon; and the Church is made poor; while, making a show of justice, they yet refuse to allow the minister of justice, *i.e.* the emperor, to fulfil his office." Their plea that the empire receives its authority from the Church is false; both alike are the ministers of God. Their talk about the "Donation" of Constantine is baseless and self-contradictory; for it is not only contrary to the very idea of the Church to receive temporal power from anyone, but even if it were true, the successors of Constantine might logically and fairly give up to the Church the entire power of the empire. In truth Empire and Church have each its own independent jurisdiction, corresponding to the double nature of man as living in this world and as an heir of eternity. Yet we must not deny that in certain matters the Roman Prince is subject to the Roman Pontiff. For that happiness which is subject to mortality in a sense is ordered with a view to the happiness which shall not taste of death. "Let therefore Cæsar be reverent to Peter, as the first born son should be reverent to his father, that he may be illuminated with the light of his father's grace, and so may be stronger to lighten the world over which he has been placed by Him alone who is the Ruler of all things, spiritual as well as temporal." The Empire in short should be the protector of the Church,

and should with all humility receive the teaching of the Church in spiritual things. Thus there will be peace and harmony between them, and they will unite in securing the happiness, temporal and eternal, of the whole human race.

Dante has been wrongly called "a Reformer before the Reformation," a title which might be much more justly applied to Marsiglio of Padua, whose *Defensor Pacis* anticipates a line of thought that had to wait until the sixteenth century for general expression, and which even forecasted the political ideas of Revolution in the seventeenth and eighteenth centuries. The occasion for the composition of this remarkable treatise was the dispute between Lewis of Bavaria and Pope John XXII. By his victory over Frederic of Austria, Lewis obtained the crown of Germany, and he immediately showed that he intended to assert his rights as Emperor of Italy. Ostensibly a dispute in regard to the opposition of the secular and the sacred power, the real question at issue was whether France or Germany or Italy should gain the upper hand. The dispute was complicated by the action of the Pope, who condemned the attitude of the Franciscans in retaining the use of property while claiming to devote themselves to a life of poverty. For his action the Pope was vigorously attacked by a group of ecclesiastics, of whom the most prominent was Marsiglio, a member of the secular clergy, who also followed the practice of medicine and was for a short time Rector of the University of Paris.

The ultimate purpose of the State, as Aristotle pointed out is, says Marsiglio, not merely life but good life. We may therefore start from the principle that all men, if they are not bereft of reason or otherwise perverted, naturally strive for a complete and satisfying life. In order to attain this object a civil community is necessary.

The passions of men deflect them from this end; they are liable to suffering and destruction from the powers of nature, and therefore they stand in need of arts of diverse sorts to ward off these evils. It is necessary for men to combine with one another in order to acquire what is useful and escape what is injurious. Government is therefore a necessity of social existence. If men are not regulated by the rules of justice, division and strife will finally lead to the dissolution of the community. These rules are the method by which rational government is secured. Since it is the function of government to restrain dangerous transgressors and all who seek to harass the community from within or without, the State must be able to bring force to bear against all who threaten its existence and its ultimate purpose. It exists, in short, in order to provide the means of good life and to transmit the things that are necessary to that life from generation to generation; it must be sufficient in itself for this end; and there must be different ranks or offices, each contributing something which man needs for the sufficiency of his life. Now, law in the strict sense is not merely the knowledge of what is just and expedient, but a precept expressed in the form of a command binding upon all the citizens. Who then is the maker or originator of law? Marsiglio answers in unequivocal terms that the source of political obligation is to be found only in the people as a whole. "According to truth and the opinion of Aristotle," he says, "the legislator, that is, the effective and peculiar creator of law, is the people, or a majority of them, acting through election, or more directly through vote in a general assembly of the citizens, commanding that something be done or refrained from in the field of social human action, under pain of some temporal punishment."¹ The

¹ *Defensor Pacis*, bk. i. ch. 12.

citizens may commit the duty of making law to some one or few, but the latter do not constitute the legislator in the strict sense of the term, but act only for the period covered by the authorisation of the primary legislator. It is for the people to decide what ceremonies, if any, are needed for a valid election. It is the people who directly or indirectly modify, interpret, or suspend laws according to the exigencies of time, place or other circumstance. By the same authority laws must be promulgated after their enactment. A citizen Marsiglio defines, after Aristotle, as "one who participates in the political community with either deliberative or judicial authority, according to his station." It is then to the whole body of the citizens that the power to make laws belongs. General utility is more apt to be found in laws so constituted than from the action of a single person or a few, who are tempted to seek their own rather than the common good. If the law is made by one or by a few, the result will be a despotism over the others, and the rest of the citizens will endure the law with impatience and seek to evade it; while a law made by themselves they will obey, since it has proceeded from their own will. No man knowingly does injury or injustice to himself. The citizens must therefore as a whole have the power of electing, correcting, and if need be, deposing the government. And it seems to be a fair inference that a ruler who is elected without succession is greatly to be preferred to rulers who are hereditary.

The doctrine of popular sovereignty is applied by Marsiglio to the Church. By the Church is properly meant, not simply the priesthood, but the whole body of believers. The ultimate authority in religious matters is therefore the assembly of all Christians or of their delegates, who should be chosen from every important province or com-

munity of the earth in proportion to the number and character of its inhabitants. The laity as well as the clergy must be represented in this general council, which has the power to excommunicate, to regulate the ceremonial of worship, and to fill the offices of Church government. The sole function of the Church is to promote the faith that leads to salvation in the future life, and it must not seek to promote this object by compulsion. The power to enforce its opinions lies with the supreme legislator, who alone has the right to inflict even the ecclesiastical penalties of interdict and excommunication. Not only have the hierarchy no authority in temporal matters, but even in spiritual things the priest has no power to forgive sin or to remit the penalty to the sinner; that is a matter for God alone, the function of the priest being merely to certify the divine act. The Pope has no more jurisdiction than any other bishop, though in dignity he may be properly regarded as pre-eminent.

From the middle of the fourteenth to the end of the fifteenth century the national as distinct from the imperial idea more and more took possession of men's minds. There was also a decided decline of the political power of the feudal aristocracy, and before the close of the fifteenth century it had been practically destroyed. Another important element was the increased political significance of the towns, which by their experience of commerce and industry were able to oppose their own ideal of life to that of the Church. In England, France and Spain the burghers aided the crown in overthrowing the nobility, while in Germany they became practically independent, and in Italy they assumed the character of the City-States of antiquity. Meantime the existence in the Church of a Pope and anti-pope each hurling anathemas at the other

destroyed the idea of the unity of the Church, and the necessity of the monarchical form of its government. The schism in the Church led to the Council of Constance, in 1414-1418, and the substitution in large measure of conciliar for papal authority. Though the papacy finally succeeded in destroying the Council, its real power was greatly diminished.

The movements associated with the names of Wycliffe and Huss were national and anti-papal in spirit. The theory of authority developed by Wycliffe has a certain interest in the history of political thought. The authority of God, which is direct and immediate, is the highest of all. Lower and subject to this supreme authority are two kinds of lordship, the natural and the civil, the former shared in by all Christians, the latter arising from the sin of man. The relation of the divine to civil lordship is figured after the manner of the relation of the feudal lord to his vassal. Aristocracy Wycliffe regards as the true form of government, while monarchy is only required because of the fall of man from a state of innocence. Slavery he regards, after the manner of St. Augustine, as a human institution resulting from sin, while the elect, being equal in freedom and nobility, look upon servitude as a matter of indifference. A grant of perpetual civil property can justly be made neither by man nor God. Hence he concluded that the temporalities of ecclesiastical corporations might be taken away in case of misuse. The priest, as he agrees with Marsiglio and Ockam in holding, has authority only in so far as he conforms to the law of Christ; so that no bull or other document of the Pope has in itself any validity. In general Huss was in harmony with Wycliffe on all essential points, being the spokesman of a reaction against the claim to clerical omnipotence.

CHAPTER FOURTH

MACHIAVELLI TO GROTIUS

AT the opening of the sixteenth century a monarchic reaction had taken the place of the movement for limited government in Church and State, while the Roman see under Leo X. had been materially strengthened. This fact was thoroughly appreciated by Machiavelli, who was also conscious that there was a tendency in the time towards the expression of nationality as well as monarchy. The old idea of an empire co-extensive with Christian Europe had faded away, and it seemed to him that the only way to restore prosperity to Italy, split up as it was into five separate states, was by some Italian prince of commanding intellect and strong will making himself master and obtaining the support of the people in arms against the dominion of a foreign power.

Machiavelli approaches the problem of political philosophy from the point of view of a practical statesman. His object is to determine the conditions under which a strong, united and efficient authority can be established. The question of the best form of government, important as he regarded it, was with him strictly secondary. He saw small despotic states oppressed by petty tyrants, and republics worn out by faction and mutual hatred. His own preference was for a republic or a limited monarchy, but he was prepared to accept even a despotism provided it was the only or the best way of defending the existence

of the State. The one indispensable quality in a ruler, whether it be the people, a king or a tyrant, is strength of will and clearness of insight. The main lesson he drew from his study of contemporary facts was that the ruin and distraction of Italy sprung from weakness. The ruler is not to be judged from any fictitious "law of nature," but only by asking whether he fulfils adequately the true function of a ruler. Utility and morality is the standard by which he is to be praised or blamed. This is especially manifest in the *Prince*, but it is also true of the *Discourses*. In the former work he analyses the political system of the strong monarch, in the latter that of the strong republic; but in both cases what he is interested in is the method of maintaining the power of the State rather than any abstract question as to its foundation.

Nowhere has Machiavelli a good word to say for any destroyer of a free government, and it is for this reason that he counsels his countrymen to take the Roman commonwealth as their model. "In a republic," he says, "nothing should be left to extraordinary modes of government, because though such a mode may do good for the moment, still the example does harm, seeing that a practice of breaking the laws for good ends lends a colour to breaches of law for ends that are bad." He has therefore no sympathy with the revolutionary dictator. No doubt occasions may arise when reform cannot be secured by ordinary means, and then recourse must be had to violence and arms. In these circumstances some man must make himself supreme, but when he does so by violence he is probably a bad man, for a good man will not climb to power by such means. Nor will a man who has become supreme in this way be likely to use his ill-gotten power for good ends. This is the eternal dilemma of a State

in convulsion. Nevertheless Machiavelli, like Aristotle, suggests a means for preserving tyranny. The tyrant must encourage his people to pursue their vocations and give them security that they will not lose their profit; he must delight them with feasts and spectacles; he must in every way exalt his city. Popular government, in which Machiavelli was a firm believer, can only exist when a State has been well instituted and is not yet corrupt. Otherwise a tyrant is needed as a "strong medicine" who in virtue of his strength shall redress what is wrong. Machiavelli believed in a mixed government which gave scope to prince, nobles and people; but it is the prince who bulks most largely in his eyes in the stress of the time.

The ideal of a limited City-State, in which the culture of art and philosophy was the main object, was one with which Machiavelli had strong sympathy, but he regarded it as too far removed from attainability to be worthy of serious consideration. No doubt a perfectly balanced State would be the true political existence. "But all human affairs are in motion and it is impossible to stand still; they must progress or decline; and where reason does not lead, necessity often drives." A State which is organised merely with a view to existence is likely to be forced into the policy of expansion, and thus be brought more quickly to ruin. Its failure in successful expansion explains why Machiavelli formed a low estimate of the Greek State and showed particular interest in Rome. The Greek States were lacking, he thought, in political wisdom because they were incapable of successful expansion, while Rome achieved empire, and thus showed the perfection of her ideal.

What marks most decisively Machiavelli's break with the Middle Ages is his attitude toward morality and

religion. He hardly refers to the law of nature, which was both in ancient and mediaeval philosophy conceived to be the source of political science; and the law of God as manifested through direct revelation was regarded by him as having nothing to do with the science of politics. He therefore deliberately and consciously separates the science of politics from the science of ethics. He does not deny the excellence of the moral virtues, but he refuses to regard them as fundamental conditions of political virtues. The sole object of the strong man in politics is success in the establishment and extension of governmental power. In both *The Prince* and the *Discourses* Machiavelli discusses the employment of violence, cruelty, bad faith and other vices with only qualified disapproval, and he speaks of the employment of virtue and religion with as little evidence of moral appreciation. He maintains that while it is most praiseworthy for a prince to be good, nevertheless he must be ready to sacrifice even his conscience, if that is required in the interests of the State. The ruler who is discreet will naturally avoid the infamy of those vices which endanger the State, but for the sake of maintaining political power he may legitimately practise deceit and hypocrisy. "The Prince must appear all sincerity, all uprightness, all humanity, all religion"; but his mind must be so disciplined that when it is necessary to save the State, he will act regardless of these. "Let the prince then look to the maintenance of the state; the means will always be deemed honourable and will receive general approbation." The same method is applied to Republics. "I believe," says Machiavelli, "that when there is fear for the life of the state, both monarchs and republics to preserve it will break faith and display ingratitude." The ruler's sole business is to save the State. A perfectly good man

living in a world where so many people are bad, would be no match for it. There are two ways of carrying on the fight against vice—one by laws, the other by force; but as the first is not always adequate, resort may at times be had to the second. A wise man neither can nor ought to keep his word, when his word would injure either himself or the State, or when the reason that made him give his promise has passed away. He should never allow his reputation for mercy to interfere with the severity which it is necessary to practise in certain cases. It would be well if he could be both loved and feared; but if circumstances force him to make a choice between them, it is better to be feared than loved. The whole question under all circumstances is what is best for the State. Where the safety of a country is at stake, no heed should be paid to justice or injustice, to pity or severity, to glory or shame; but that course should be followed which is likely to preserve existence and freedom.

Machiavelli is by no means a thoroughgoing advocate of a monarchical form of government. When there is anything like economic equality the only possible form of government he believes to be a republic. The people as a whole are wiser than the princes, and are not more ungrateful. Though they are often mistaken in regard to great principles, they are usually right in regard to particular measures. As for prudence and stability, he says, "I say that a people is more prudent, more stable and of better judgment than a prince. Never let a prince complain of the faults of the people under his rule, for they are due either to his own negligence or else to his own example, and if you consider a people given to robbery and outrages against law, you will generally find that they only copy their masters. Above all, and in any case, the ruler, whether hereditary or an usurper, can have no safety

unless he founds himself on popular favour and good will. Better far than any number of fortresses is not to be hated by your people.'

The only sound policy for an hereditary monarch, and much more for a newly established prince, is to show respect to the established institutions and customs of the land. The Prince must have a good army, and he should seek to inspire fear in his subjects. At the same time, he must cultivate a reputation for high purposes and lofty character, and he must liberally encourage the useful arts. Machiavelli consistently maintains the distinction between the fundamental law of the State and ordinary legislation. Law naturally reflects any change in custom, while the constitution itself remains unchanged. Rigidity in the constitution will ultimately lead to the ruin of the State unless it is modified to suit new conditions. It is wise, however, to respect the ancient forms, even if a fundamental change is made in substance; and this is easily done, because the people are not hard to please so long as appearances are respected. Some officer of State must be provided who on occasion may exercise absolute power in great emergencies. This is especially necessary in a popular form of government on account of the slowness of the administration. The struggles of parties Machiavelli regards, not as evils, but as a condition of greatness; they give occasion for testing the ability of the leading citizens, and call into existence the institutions and laws which prove the mainstay of the government in later days.

Machiavelli is no doubt right in maintaining that there is a distinction between public and private morality, and that a patriotic statesman may do many things which in a private individual would call for severe reprobation.

But it is one thing to say that a nation, responsible for the whole life and prosperity of the subjects, cannot be judged in the same way as we judge an individual in his comparatively limited sphere of action, and another thing to say that it is absolved from all moral law and may employ fraud, deceit, treachery and violence under all circumstances and as a regular principle of action. Nor can a statesman be exonerated if he employs as a settled policy such methods to secure the aggrandisement of his own people, and even apart from any real danger to the existence of the nation. We have to consider among other things the inevitable effect of this unscrupulous mode of action upon the whole spiritual life of the nation that he represents, not to speak of its influence upon the subjects of other nations. In any case the attempt to justify action that at the most can only be condoned by dread of national extinction, and to make it a fixed principle of State action, is contrary to the higher interests of the State which practises it, not to say anything of the continual temptation to find reasons for holding the country to be in peril whenever there is a temptation to embark upon an unscrupulous policy.) It cannot be admitted that statesmanship consists in the endeavour to secure special advantages for one's own people at the expense of other peoples—as if the real interest of one nation were necessarily in antagonism to the interests of all other nations. More and more we are coming to see that the highest form of statesmanship, and indeed the only rational form, is that which regards the various nations as fellow-workers in the common cause of humanity. No doubt we are still far from realising this ideal, but the first step towards it is to get rid of the notion that nations must be regarded as necessarily hostile, the only law in their case being the “law of the beasts.”

As Machiavelli is the spokesman of the Renaissance, so Luther represents the political philosophy of the Reformation. The influence of the latter was once for all to substitute in men's minds the authority of the State for the authority of the Church. The prince became no longer a feudal monarch, but ruled by his own independent power, while the authority of the emperor practically disappeared. Luther never allowed the right of the people to rebel against the authority of the prince, and therefore he pronounced against the revolt of the peasants in 1525. The distinction between sacred and secular he denied, and he maintained the necessity of inequalities of rank. Although his influence was on the whole in favour of nationalism, it was not the German people, but the territorial prince who reaped the benefit. The prince in his view is responsible only to God, not to the people. To him it seemed evident that the only power which could secure to the individual his rights and his liberty was a prince with absolute authority; for only so, he thought, could the lay power be liberated from clerical control. The actual result was to give the prince authority over the religion of his subjects and to make religion dependent upon the will of statesmen. The imperial authority was destroyed, but at the same time all checks on princely tyranny were removed by the transference of the doctrine of non-resistance from the imperial to the princely and from the ecclesiastical to the lay power.

The problem of Machiavelli was how to preserve a State whose very existence was threatened. Jean Bodin on the other hand really attempts to put forward a theory of the State, and he gives a precise definition of what he understands by political sovereignty. Sovereignty is a power supreme over citizens and subjects, itself not bound

by the laws. This power must not be temporary but perpetual. Whatever authority is given to magistrates or private individuals is different in its nature from the power of the sovereign. Supreme and perpetual power may be bestowed by the people upon an individual, they having abrogated their authority, just as one may surrender to another the ownership and possession of his property ; and in this case an individual may have sovereignty, provided always the transfer is free from conditions. The monarch is in this case above law, though he is not above duty and moral responsibility. " If we define sovereignty as a power *legibus omnibus soluta*, no prince can be found to have sovereign rights ; for all are bound by divine law and the law of nature, and also by the common law of nations which embodies principles distinct from these." A prince may abrogate, modify, or replace a law made by himself and without the consent of his subjects ; but he cannot abrogate or modify laws concerning the supreme power, since these are attached to the very sovereignty with which he is clothed. Even if a prince has sworn to obey the laws of his fathers, he is not bound by his oath unless it has been made to his subjects as a condition of reigning. The first and principal function of sovereignty is to give laws to the citizens, nor is the prince bound to obtain the consent of any assembly or senate. He may indeed call together assemblies or senates, but the final decision rests solely with himself. Custom has no force against the authority of the prince, for it has compulsory force only so long as it is endorsed by the prince, and when it is so endorsed it has the force of law.

The most important contribution of Grotius to political science was his formulation of a scheme of international rights and duties. Such a scheme was eminently called

for from the need to find some substitute for the influence of Christianity, which had served to bind peoples together, but which was now of no avail when one nation was Catholic and the other Protestant. The place thus left vacant was filled by the revived idea of a law of nature prescribing the rights and duties of divided and warring peoples. In his doctrine of sovereignty Grotius cannot be said to have made any advance upon Bodin ; and his assimilation of sovereign power to a private right has tended to obscure its true nature. The theory that society is based upon an original contract, which was employed to defend the absolute power of the monarch, equally lent itself to the support of the sovereignty of the people ; for a contract by its nature implies the observance of its terms by both parties, and ceases to be binding when its terms are violated by either party. As it happened, the course of events led to the application of the idea of contract on the Continent in support of an absolute monarchy, while in England it was turned to account in justification of revolution.

CHAPTER FIFTH

THE NATION-STATE: HOBBS, SPINOZA AND LOCKE

THE Sophists, as we have seen, sought to base the State upon a "contract neither to do nor to suffer wrong." This idea of an opposition between the individual and the State, involving the conception of the individual as having natural rights apart from society which he voluntarily suspends in order to obtain a greater personal good, is the common assumption of Hobbes, Locke and Rousseau, an assumption which is received from them by Bentham and Austin. Hobbes maintains that in the state of nature each man fights for his own hand, and it is to escape from the internecine state of war thus engendered that a contract or pact is made by which individuals hand over their power to some individual or individuals, who henceforth act with the combined power of all the individuals. The contract is indissoluble, and the government has an indefeasible right to direct the actions of all members of the society over which it is sovereign. It is true that the only sovereign in the proper sense must owe his power to the consent of the people, but it is tacitly assumed by Hobbes that the sovereignty once established cannot be annulled. If indeed the subjects are strong enough to resist the claim to sovereignty, the right disappears. It follows that the only source of an obligation is the power to enforce obedience. For the right of the sovereign is

established only by natural right, which means that its basis is, like that of the individual in a state of nature, his power to uphold it.

Sovereign power may be acquired, as when men submit to a conqueror under fear of death. Such a sovereign is not properly a sovereign in Hobbes' sense of the term, because his power is not due to any covenant. The only sovereign in the proper sense is one who owes his power to the consent of the people. But Hobbes tacitly assumes that a sovereign who has obtained his sovereignty by acquisition may act as if he were a sovereign by institution. The only right which a sovereign can claim lies in his superior power, and if the subject can resist it the right disappears. A successful resistance would show that the sovereign power had ceased to exist. Hobbes can only show that the subjects have a right to rebel by distinguishing the *Power* of a Sovereign from his *Right*. The sovereignty established can only have a *Natural Right*, and that means mere *Power*. If it means anything else, it must mean that there are natural rights of men other than mere power, which are vindicated by the subversion of the latter. But if there are such rights, there must be equally a possibility of collision between the sovereign power and these rights which would justify a resistance to it.

In harmony with the ancient idea Spinoza holds that the State is the great means by which man is freed from the "wretched and almost brutish existence" which is spent by those "who live in a state of barbarism without a political order of life." It is true that the State cannot determine the whole life of man; there are spheres and interests which lie beyond it; nevertheless there is much which only the State can do, and it is one of the most

important means of human happiness. (From what source ~~then~~ does society derive its powers or rights?) The answer of Spinoza is that man has a natural right which is co-extensive with his power over things. This power is by no means unlimited, because each individual being is only a part of a whole order or system which is constituted by the essential nature of the universe or God. (The good of man is that which will contribute to his greatest welfare or happiness.) Men certainly often err in regard to the means by which their good may be obtained, but this is due solely to an error of judgment. He who has a clear conception of that wherein his true happiness consists cannot help seeking and willing it. A bad action is one which is the expression of an inadequate idea, and its badness consists entirely in this inadequacy. (Hence the only way to make a man better is to give him reasons for changing his opinion.) The society which by its laws encourages industry, enterprise, honesty and thrift supplies to its citizens adequate reasons for regarding these qualities as for their good. The thief may be converted into an honest tradesman if he can be convinced that the skill which he displays in depriving another of his money can be employed to his own greater advantage in another way. To be angry or indignant with the evil-doer is not only useless, but it does not remove the causes which led to his evil-doing. The proper method is to institute better conditions of social existence, more suitable conditions of labour, and a better form of family life. The end of the State is, then, to make men free, that is, to induce them to live according to reason, and it can only do so by prescribing and enforcing certain courses of conduct. The individual must obey the law or submit to the penalties imposed by the State.) If every man followed reason, he would cease to speak of being under

obligation to obey the law, and would speak only of liberty and happiness and the love of his fellows, which is identical with the love of God. (A law is not properly a command, but a rule of conduct which a man prescribes to himself or to any other with a view to a certain end.) But as the true end of life is recognised only by a very few, legislators have promised rewards to those who obey the law and threatened punishment to those who violate it. It is for this reason that a law has come to be regarded as a command. (Man is not naturally moral or social, but must fight his way towards sociability, and the State is the chief moral agency in this contest.) In the state of nature men are one another's enemies. But this is only the first state of man. Every one desires to live in security and without fear ; and this end cannot possibly be attained so long as enmity, hatred, anger and guile rule in place of reason.

Spinoza rejects the view of Hobbes that in a state of nature there is "war of all against all." Men naturally associate with one another, finding the help of others necessary for defence and for the satisfaction of the natural wants. Without mutual help they would spend their lives in the utmost wretchedness, whereas a settled order confers positive advantages upon the individual. Hence even in the state of nature that man is the most powerful and most a law to himself who is most guided by reason. If all men were so guided, they would utterly detest fraud and guile, and would sacredly observe every promise, thus displaying that loyalty which is the best defence of all. However far we go back in history, we never find a point where men are not endowed with the faculty of reason, a faculty which is not made by the State, but which, on the contrary, calls the State into existence. The civil order is the conscious and deliberate creation of men's thought,

and has been instituted because they recognise that each would gain more than he lost by having settled laws, customs, modes of conduct, and forms of rule binding upon all. (The State is therefore a social compact of a peculiar kind) for it does not derive its character from any other compact, but is the condition of them all. It does not necessarily imply free consent, but may be based upon force and conquest, and in its terms it is absolute and indissoluble. Nor does it depend upon any verbal or written agreement, but springs from the essential nature of man. Whatever in the judgment of the ruler is in the common interest, that it is right for him to do. The contract ought undoubtedly to be violated if this is demanded by common safety, though the right to judge whether it should be broken belongs to no private citizen, but only to him in whose hands the supreme power is placed. (On all other occasions, the State is bound to observe the terms of the contract, for the same reason as a man in the state of nature, if he would not be his own enemy, must not commit suicide.)

So far is it from being the case that government is an alien force, it is the best friend that man has in the world. There is no antagonism between the individual's interests and the interests of the community. Reason teaches us that we should seek the things that make for peace, and peace cannot be secured unless the common laws of the State are preserved inviolate. "The *status civilis* has its natural source in the desire to be free from some common fear, and to remove the common causes of unhappiness. Hence its chief end is just that which each man who was guided by reason would try, but try in vain, to reach in the state of nature. Thus even if the man who makes reason his guide has sometimes, in obeying the commands of the State, to do what he knows to be contrary to reason, this loss is far more than made up to him by the benefits which

the *status civilis* itself confers upon him. And surely it is a law of reason that a man should always choose the lesser of two evils. Our conclusion accordingly is that no one acts in any way contrary to the prescript of his own reason when he does that which the law of the State requires should be done.”¹

The end of the State, then, is not to restrain men by fear, and subject them to a foreign yoke, but to “deliver each man from fear, so that he may be able to live with the utmost possible security; that is to say, that he may maintain in the best way his own natural right to exist and to act, without doing harm either to himself or to his neighbours.”² Hence the power and the right which in a state of nature each man possesses cannot belong to him in the civil community. If he remains outside of the civil order, he must submit to the consequences, and hence we may say that the civil order is natural to everyone and is maintained by the thought and will of each individual within it. By it a man is protected against his own lower self, not less than against the encroachments of others. The law is an expression of reason, and therefore of man’s higher self; hence neither religion nor his own unguided judgment can be a substitute for it. The State is indeed a necessity, but it is a necessity of thought.

What does the individual give up in order to enjoy the advantages of the civil order? In the highest sense he does not give up anything, but in a lower sense he gives up the power and the right to do whatever is in his own judgment for his advantage, and he agrees to be ruled in his conduct by what the State judges to be the best for

¹ *Tractatus Politicus*, iii. 6; Duff’s *Ethical and Political Philosophy of Spinoza*, p. 267.

² *Theol. Pol.* ch. 20; Duff, p. 267.

all and therefore best for him. In other words, he resigns his own natural right in favour of a ruling power which employs the natural right of the whole community. A man has no property, for example, which he can call absolutely his own, and which may not be interfered with by the State. All property belongs to the community, and if we distinguish between private and public property, it is only because in the one case the property is entrusted to the private citizen for use, while in the other case it is administered by a public official.

Hobbes regards the State as synonymous with the Ruler, while Spinoza more properly distinguishes the one from the other. The ideal State is in his estimation that in which the Ruler's power is absolute ; but what this means is for him that only the Ruler who acts in the interest of the public good can be absolute in the control of his subjects. Spinoza indeed is the determined opponent of an absolute monarchy, which he regards as the most dangerous and precarious of all kinds of rule. He carries through his social theory the principle with which he starts, that no one has more right than he has power and insight. Though the people may have made a covenant with the Ruler, and though the Ruler may have the blessings of the Church, yet if he does not fulfil his proper function and maintain the interests of the whole community, he inevitably loses his authority. This principle Spinoza regards as the only safeguard against absolutism such as that advocated by Hobbes. The right to rule and the claim to obedience lapses with a violation of the conditions essential to the ordered civil life. "The existence of a State," he says, "depends upon certain conditions. If these conditions are maintained, so also are the reverence and fear of the subjects towards the State ; while if these conditions are destroyed, so also are the reverence and

the fear of the subjects; and when reverence and fear are lost, so likewise is the State. The State is therefore bound, if it would be a law and an end to itself, to maintain the causes of fear and reverence, otherwise it ceases to be a State. For it is as impossible for the man or men who have their chief place in the community to flaunt their drunkenness and profligacy in public, to play the fool, openly, to violate and condemn the laws made by themselves, and at the same time to maintain their sacred majesty, as it is impossible at once to be and not to be. Or again, if they slaughter and plunder their subjects, ravage virgins and so on, they inevitably change the fear of their subjects into indignation. That is to say, they turn the *status civilis* (whose end is peace) into a state of hostility.”¹

Spinoza denies that we can apply directly to the State the principles which are applicable to individuals. Being the supreme authority, the State, if it is untrue to itself, will act in disharmony with the interests of the citizens. To observe a treaty which is found not to be in the interest of the citizens, is to act contrary to the very idea of the State. So long as separate states are supreme each in its own sphere, there must be a condition of mutual hostility, which cannot be overcome until some organised force stronger than any one of them is established. There may indeed be a federation of States, which can do much to diminish war; and the greater the number of the States that enter into the confederation, the less likely is war to take place. Nevertheless each State must see to the interests of its own citizens, and cannot without folly make any agreement that would interfere with this object.

There is also another side to the autocracy of the State.

¹ *Tract. Pol.* iv. 4; Duff, p. 289.

It must be independent of any right or power vested in its citizens as private individuals. The citizens have no rights except those which have been bestowed upon them by the State. Hence any individual, corporation, trade, or Church, which secures for itself rights or powers without the authority of the State, simply proves the weakness and inefficiency of the State. If it is to preserve its independence, the State must be supreme, and therefore it cannot transfer its rights to any other body or individual.

Spinoza's theory of the State marks a distinct advance upon that of Hobbes, especially in its conception of the source of rights. The notion that men have rights apart from society is the foundation on which Hobbes' theory of the Social Contract is built. Men are assumed to have rights before the existence of society, and only surrender them in order the better to secure their own individual interests. Thus rights are divorced from duties, and it is supposed that the only rights that they possess after the formation of society are those granted to them by positive enactment, except certain primitive rights which survive under the new conditions. In truth, as Spinoza sees, there can be no right which does not flow from the consciousness of a common interest on the part of members of a society, since a right implies recognition by the common will.

But, suggestive as it is, Spinoza's doctrine does not seem to be consistent with itself. He holds that men band themselves together because they believe that in this way they will best realise the effort to perpetuate their own existence. He does not recognise any other motives in the civil state than those which are operative in the state of nature.

In his theory of the State he carries out unflinchingly the fundamental principle of his ethical philosophy, that man's highest good is the result of that *conatus sese con-*

servandi which is found in all forms of being. Anything like self-sacrifice or even self-blame he rejects. Asceticism is for him nothing but a *torva et tristis superstitio*. The true end of all action is to secure the greatest self-satisfaction or individual happiness, and in this attitude of pure affirmation Spinoza finds the secret not only of the State but of the highest form of blessedness. From passion, the motive operative in man in his first mind, liberation is to be obtained by an enlightened self-interest that leads to identification with the common weal. It is entirely a question of the greater enlightenment which comes from the wider view of reason. When we bring our own life into connection with the life of society as a whole, we see the irrationality of the narrow life of passion, and therefore we seek our own good in the common good.

The defect in this account of the transition from the state of nature to the social state is that it gives no justification for the latter. If we once admit that in the so-called state of nature man is already in possession of rights, there can be no difference in principle between the *status naturalis* and the *status civilis*. In truth in the former there can be no rights, but only powers, or if there are, it must be because there is ascribed to man in the state of nature the very same essential nature as that which is supposed to come into existence only in the civil state. Thus Spinoza's view really leads to the dilemma: If in the state of nature there are rights, society is already formed; if there are only powers, these will not develop into rights.

Spinoza's transition from passion to reason is in effect a means of concealing the defect in his conception of society. Passion has in it an element of defect, being an inadequate idea, and this inadequacy arises from its finitude. Remove the limitation due to this cause and it will become adequate.

Personal ambition is morally wrong, but when it is brought into relation to the idea of the whole, it becomes moral. Now, this way of looking at the matter disguises the fact that Spinoza has here really made a transition which is qualitative. Selfish ambition differs from unselfish, not merely because it is inadequate, but because it is wrong. Thus the difference is infinite. True, it is so far moral as to imply a false notion of what the highest good of the individual demands; but this false notion covers a distinction in kind. Spinoza, fixing upon the fact that it involves an impulse towards self-realisation, and so far agrees with disinterested ambition, the ambition which leads a man to identify his own good with the good of the community, affirms that the former is in essence identical with the latter. But it is only identical in being a real but blind effort after the good. Thus it is as much a violation of true self-realisation as it is an effort after it. The transition from selfish to disinterested ambition can only be made by the negation of the defective element in the former, and this negation is just as essential as the affirmation. All moral action therefore involves a negative as well as a positive element, and it is neglect of the negative element that leads Spinoza to think of morality as pure self-affirmation; and, it may be added, it is the same neglect that leads him to endorse the idea that the State is a Contract, that is, an agreement of separate wills each seeking its own personal good. The fundamental mistake in his political philosophy as in his general philosophy is to conceive the bare individual as having a nature apart from society, whereas there can be no distinctively moral action except in so far as the individual discharges a function in society which enables him to minister to the well-being of the whole community. Spinoza was debarred from taking this view by his denial

of all final causes. Holding that man like other beings is determined solely by material and efficient causes, he can properly speak neither of rights nor of duties, both of which imply relation to an end, namely, the good of society as a whole. This does not prevent him from tacitly assuming that human affairs are directed to an end, as when he says that men seek to secure a higher form of civil society. He thinks that a clear understanding of the world will lead to an advance from a lower to a higher form of society ; and in so doing he tacitly assumes that man is determined by the idea of social perfection, and not simply by the impulse to secure his own well-being.

With less speculative power than Spinoza, Locke comes nearer in virtue of his strong common sense to a true political theory. He differs from Hobbes in conceiving the original contract as merely an agreement to form a civil society, which must have a government, but not necessarily the same government. The people always retain the right of resuming the powers delegated to the legislative and the executive. Thus Locke virtually vindicates the right of revolution. The legislative power is supreme over all other organisations, but in the last resort it is subject to the will of the community. Thus a government that passes bad or fails to pass good laws may be removed and another put in its place. The liberties of the people cannot be allowed to pass out of its own hands. Where the executive is vested in a constitutional monarch, inferior magistrates derive from him their powers, but obedience is due to him only so long as he acts according to the law. When he fails to represent the commonwealth and acts by his own will, he degrades himself, and is " but a single private person without power, and without will that has any right to obedience ; the members owing

no obedience but to the public will of the society.”¹ Locke therefore distinguishes three senses in which we may speak of the supreme power : (1) The sovereign power ascribed to the constitutional monarch, (2) the supreme law-making body, (3) the whole mass of public opinion and the whole force of the people. Good government is determined by the relation between the legislative and the general will, which is the ultimate political sovereign, and which is expressed through representative institutions, petitions, public meetings, a free press, and various other means. If these are interfered with or refused, the public will may assert itself by armed rebellions, or, if that is not possible, by secret conspiracies. International law is not a limitation of the absolute sovereignty of the nation, being self-imposed. No doubt the recognition of the nation as one of a community of nations, with moral claims upon it, which are backed by the irregular penalties of war, imposes a moral check upon its unlimited independence, but only as the recognition of the will of the ultimate political sovereign imposes a moral check on the legal sovereign.

¹ Locke's *Treatise of Civil Government*, bk. ii. ch. 13.

CHAPTER SIXTH

THE NATION-STATE (*continued*): ROUSSEAU, KANT AND HEGEL

IN the eighteenth century the transition was made from these abstract conceptions to a more concrete grasp of the nature of the State in the *Contrat Social* of Rousseau. As was only natural in a pioneer, the new wine of political theory is put into the old bottles of the juristic tradition, with the result that Rousseau's fundamental idea is apt to be misapprehended or overlooked. When he tells us that "man is born free and everywhere is in chains,"¹ we naturally think that he is making a claim for the unsophisticated man and preferring an indictment against civilised society as a restriction of human freedom. This is by no means his meaning, though it must be confessed that he gives countenance to this false interpretation by his confused idea of the state of nature. His view is clearly indicated in his criticism of Grotius. Government, according to Grotius, is based upon force, not upon the true consent of the governed. But this, argues Rousseau, makes right depend upon the power that chances to be strongest, and with the weakening of the power the right is also weakened. Grotius asks why, if an individual man may alienate his liberty, a people may not give up their liberty into the keeping of a king. To which Rousseau answers that no man can rightly alienate his

¹ *Contrat Social*, i. 1.

freedom, and even if he could alienate himself, he could not alienate his children ; so that in each succeeding generation the people must have the right to accept or reject the government. To renounce one's liberty is to renounce what makes one a man, and to destroy the morality of action. Grotius says that a people may give itself a king ; but he does not observe that a nation must first exist before it can give itself a king.¹

Having thus cleared away Grotius' inadequate solution, Rousseau restates the problem in this form : " To find a form of association which shall defend and protect, with the entire common force, the person and the goods of each associate, and by which, uniting himself to all, he may nevertheless obey only himself, and remain as free as before." ² There is a certain defect in this mode of statement , for obviously if man is originally free, some of his freedom must be lost when he submits to society ; and if on the other hand man in society has increased power, he must be more free than he was before. This defect is connected with the individualistic terms in which Rousseau states his doctrine of the common will. He never entirely clears his mind of the fallacy that man is free apart from society, whereas the real gist of his argument is that it is only in society that man is free at all.

The essence of the Social Contract is reducible to the formula : " Each of us puts into the common stock his person and his entire powers under the supreme direction of the general will." ³ No doubt " each individual may as a man have a particular will contrary to or unlike the general will which he has as a citizen." Thus, " in order that the social pact may not be a vain formula, it tacitly includes the covenant . . . that whoever shall refuse

¹i. 4, ii. 5.

²i. 6.

³i. 6.

to obey the general will shall be constrained to do so by the whole body, which means nothing less than that he will be forced to be free.”¹ For, if the social person is a reality, force employed against the physical individual may be the condition of freedom. “The transition from the state of nature to the civil state produces in man a very remarkable change by replacing in his conduct instinct by justice, and giving to his actions the morality which they lacked before. It is then alone that, the voice of duty succeeding to physical impulse, and right to appetite, man, who till then had only considered himself, sees himself compelled to act on another principle, and to consult his reason before listening to his inclinations. Although he deprives himself in this state of several advantages which he holds from nature, he gains much greater ones in their place : his faculties exercise and develop themselves, his ideas expand, his sentiments are ennobled, his whole soul is exalted in such a degree, that, if the abuses of his new condition did not often degrade him below that from which he has emerged, it would be his duty to bless without ceasing the happy instant which tore him from it for ever, and, from a stupid and narrow animal, made him an intelligent being and human.” We must therefore “distinguish natural liberty, which has no bounds but the powers of the individual, from the civil liberty which is limited by the general will.” And we may “add to the gains of the civil state the moral freedom which alone makes a man master of himself; for the impulsion of appetite is slavery, and obedience to the law which we have prescribed to ourselves is liberty.”²

For Rousseau, then, the civil state is an embodiment of moral liberty. It is not a mere renunciation, but the attainment of freedom. By freedom Rousseau means

¹i. 7. ²i. 8; Bosanquet's *Phil. Theory of the State*, pp. 97-98.

the recognition of a law and a will with which one's everyday self may be at odds, but which is one's truer and fuller self. Positive freedom being the exercise of the higher self or general will, Sovereignty will consist in its exercise. The general will is not the mere sum of individual wills—though Rousseau speaks at times as if it were—but the will of all in so far as the common good is its object ; and law is its expression, but only in so far as it is what it ought to be. Sovereignty must therefore be distinguished from Power, for Power can be transmitted, but not Sovereignty. The exercise of the general will can never be alienated, for that would mean that it is not an expression of the consensus of all the wills of the community. Sovereignty is thus at once inalienable and indivisible. It consists solely in the act of legislation, and implies that the people as a whole come to a decision with reference to the whole people. Laws can only be made by the general will, and are the register of the real will of the individual. Still, while the general will is always right, it does not follow that the resolutions of the people are always right ; for, though men always desire their own good, they do not always discern wherein their good consists.¹

Government, which is never the same as the Sovereign, does not legislate, but carries out the legislation of the Sovereign. As the magistrates, with the execution of the laws and with the maintenance of liberty, both civil and political, may be the whole people or a small number, or a single person, a State may be either a Democracy, an Aristocracy or a Monarchy. The difference in these forms of government does not lie in the quarter where the Sovereignty resides—for it must always reside in the whole body of the people—but in that in which

¹ ii. 2, 3.

the government resides. The government is the public force by which the general will is brought to bear on the citizens or against other States. Rousseau is of opinion that the best form of government is a Democracy, though he points out that the will of all does not necessarily coincide with the general will. In the other two forms, indeed, the force of government is greater than in a Democracy ; but where there is any Sovereign Will at all, the government must express it.

Since the Sovereignty is inalienable, there can be no contract between the Sovereign and the government. " There is but one Contract in the State, namely, that of the original association ; and this excludes every other. No other contract can be imagined which would not be a violation of the first." ¹ Even when government is vested in a hereditary body, monarchic or aristocratic, this is merely a provisional arrangement, made and liable to be reversed by the Sovereign, whose officers the governors are. In order that the sovereignty should not fall into abeyance, it must be exercised, and it can only be exercised in assemblies of the whole people. Such assemblies are entitled to revise and repeal all previously enacted laws. The English people, according to Rousseau, is only free while an election to parliament is going on.

It is obviously the confusion between the general will and the will of all—which yet Rousseau himself clearly distinguishes—that leads him to say that the general will can only be exercised in an assembly of the whole people. If, as he says, the general will may be very different from the will of all, it is obviously not fundamental that the general will should be expressed by the whole assembled community ; what is fundamental is that it should be expressed. Rousseau admits that the

¹ iii. 16.

general will may be overpowered by particular interests, and find no expression in the votes of the popular assembly. Apparently, however, the possible lack of enlightenment does not prevent its decisions from being in the interest of the general good ; which is an obvious confusion between the absoluteness of the general will and the relativity of its actual expression.

The main defect in Rousseau's theory of the State arises from his assumption that the general will can only be exercised in a full assembly of the whole people ; a condition which is impossible in any large State. Such a view is obviously the result of a confusion between the general will and the will of all. It is not fundamental to his doctrine that the whole people should determine each law in their assembly, but only that, whatever the method of ascertaining it, the general will should be expressed. What is best for the good of the whole is by no means manifest to every citizen in his ordinary mind ; his real will must be revealed to him, and for this purpose a representative form of government may be shown to be more successful than any form of plebiscite. On Rousseau's view no large State is possible. It is quite conceivable that the people may have no clear conception of what the public good demands, and may really be determined in their judgments by a consideration of their private good. No doubt a man does not lose his desire to make the best of himself however he may be deflected in his judgment by his private interest. What is permanent in Rousseau's doctrine is that man is always *aiming* at what he believes to be his good. If this ineradicable impulse of an intelligent being disappeared, there would be no general will, and the whole foundation of political society would cease to exist. If every man had an intelligent apprehension of his own real good, he would in all

cases seek the common good, and in that case the will of all would be identical with the general will ; but even so, the justification would not lie in the fact that a vote of all was given, but in the coincidence of the judgment of all with reason. An agreement of all if each is determined by the consequences to himself as a private individual is merely what Rousseau would call a sum of particular wills. The fact, for example, that the German people are unanimous in believing that world-conquest is the mission of Germany does not prove that their will coincides with the interests of humanity. We cannot assume that the agreement of all is the same as the good of all. Even if the aim were actually achieved, would it compensate for the destruction of the freedom of other nationalities ? Should we not lose the incalculable benefits which accrue from the individuality of nations each concentrated on a special task ? If so, obviously the agreement of all citizens is not the realisation of the true will of even a single nation, not to speak of the community of nations. The basis of the general will is not the consent of the citizens, even when they are unanimous—a condition which in practice never occurs—but the rationality of their action. If the citizens of two nations take opposite views, and even go to war in support of them, it does not follow that both are right. Yet on the ground of mere agreement the view of the one is just as strong as the view of the other. There is no way of reconciling a flat contradiction.

It is true that the will of the whole of the citizens should be the basis of State action ; but the reason is not that absolute agreement is the only condition under which the general will can be realised, but that the political education of the whole people is essential to the best citizenship. This is the ground on which we may legitimately condemn all absolutist governments. Even grant-

ing that the acts of an absolute ruler are on the whole for the good of his people, absolutism offends against the fundamental character of every citizen as essentially a rational and social being. What is simply imposed from above, even with the best intention, and however good it may be in itself, is not will but force, and a free being cannot agree to be forced to act. In a representative government there is more likelihood, granting that the representatives are elected by the whole people—for otherwise sectional interests are sure to sway their judgments—that the social will shall be realised than in a primary assembly ; for not only are all interests represented, but the special study demanded for wise legislation is more likely to be found in the body of representatives than in the uninstructed will of the whole body of the citizens. The complex organisation of a modern Nation-State makes it a means of discovering and realising the common will better than any collection of the momentary wills of individuals. By reducing the machinery for the expression of the common will to the isolated and unassisted judgment of the whole body of citizens, Rousseau is really ensuring the very reverse of what he professes to aim at.

We must also remember that the work of the legislator is a continuous process. The growing experience of the people through the various organs of their social life, and the continually new insight thus gained, make legislation a process of self-criticism and self-correction. The habits and institutions of a community may be regarded as the interpretation of the private wills which compose it. Thus the real will of a community is not to be identified either with the private will or with the sum of private wills, except in so far as it expresses what both are really aiming at. Of course the interpretation of the real will is never final, but each advance is a step towards a better inter-

pretation of it, just as science is continually passing from one discovery to another, though it never reaches absolute completeness.

The principle which Rousseau brought to light, though he expressed it with a certain ambiguity—the principle that the end of the State is to realise the general will—is made by Kant the basis of his theory of jurisprudence. Morality demands that every human being should be regarded as an end in himself, while the problem of jurisprudence is to secure that each should exercise his freedom in a way that is consistent with the exercise of the freedom of all the others. Hence the free subject must impose upon himself the limit which he is called upon to respect; if he claims a right against others, he must recognise that others have the same right against himself. Collisions of one person with another can be avoided only by each acting in accordance with rules that can be universalised. Acts which are inconsistent with the principle, that what one claims for himself he must recognise in the case of others, are contrary to freedom, and may therefore be restrained. Thus there is a compulsion which is in harmony with freedom. “When a certain use of freedom is a hindrance to freedom according to universal laws, the compulsion which is opposed to it, as the hindering of a hindrance to freedom, itself agrees with freedom according to universal laws, *i.e.* is right.”¹

In jurisprudence we have nothing to do with the motive from which an act is done. Hence my right extends only so far as it is possible to compel others to respect it. A legal right being entirely external, it cannot appeal to the consciousness of moral obligation, but must be based on external compulsion. A creditor, for example, cannot

¹ vii. 28; Caird's *Kant*, ii. 321.

lead the debtor to feel that payment of his debt is demanded by reason : all that he can do is to bring compulsion to bear upon him on the ground that the payment of one's debt is consistent with the freedom of everyone, and therefore with his own freedom. Right and the title to compulsion therefore mean the same thing.

There is only one original or innate right, the right of freedom, and upon this right every acquired right is based. Freedom, or independence of the compulsory will of another, belongs to every man in virtue of his humanity. Such freedom carries with it equality, for a man cannot be bound by others to more than that by which he may bind them. How, then, does freedom realise itself in the outward world ? We must start from the principle that the only limit to the freedom of another consists in the right to freedom of oneself. Rights do not belong to things but only to persons. Again, rights are always in one person as against others. Lastly, the relation of persons is reciprocal. Rights cannot be on one side and duties on another,—a principle which is violated by slavery. In the actual state of nature no rights are respected, because right implies reciprocal compulsion, which can be enforced only by a power which acts in the name of all. Since the rational subject is inviolable, this inviolability attaches to the objects into which he puts his will. Thus liberty gives rise to property. "What is mine is that with which I am so bound up that if any other person should make use of it without my consent, he would do me an injury."¹ Thus interference with the external things that belong to me is inconsistent with the freedom which is my birthright. The connection of objects with my personality is not dependent upon actual physical possession, but is an "intelligible" possession. My personal will

¹vii. 43 ; *Contr.* ii. 325.

is manifested in the external object, and only in this way can all persons be excluded from the object. The external world is to be conceived as a common possession of the race, but this ideal community of possession can be realised only by the exclusive appropriation of individuals. Prior occupation may be regarded as establishing an exclusive right against all who come after. The *jus in rem* is thus the right of persons in things, and is necessary to prevent the wills of persons from coming into collision. *Personal rights*, on the other hand, are rights of one person to an object at first possessed by another, or to some service which the other can perform for us. A contract is implied, in which a transfer is made from one to another. The right so established is against a particular person. Where a service is in question, it must be definitely limited in extent and character ; otherwise it would amount to slavery. Lastly, *jus realiter personale* is the right over a person as if he were a thing. In marriage each acquires a right over the person of another, so that personality is restored. This excludes polygamy. In the relation of parent and child the independence of persons is also annulled.

In order that there may be security that individuals will enjoy their rights, there must be a political power. I must be assured that if I respect the property of another, he will equally refrain from violating my property. No special legal act is required to guarantee this reciprocal legal obligation, because the universality of that obligation is admitted. A compulsory power can only be exercised consistently with freedom by a "collectively universal will armed with absolute power," in other words in the civil state. The violence involved in the enforcement of rights is necessary to counteract the potential violence arising from a state of anarchy. The State is thus constituted by an original contract, the terms of

which are that all members of the people give up their freedom in order to take it back again as members of a commonwealth. By this contract a man does not sacrifice any part of his freedom, since the contract is an expression of his own will. The State, then, at once frees the individual from himself and protects him against enslavement by others. It uses its power to "hinder the hindrance of freedom," and it must not attempt more.

If we call the State a Contract, we must add that it is a Contract that men are bound to make, and which, once made, can never be broken. "The origin of the Supreme Power is for the people in a practical point of view inscrutable, *i.e.* the subject ought not to raise subtle questions as to its origin, or treat its right to his obedience as a *jus controversum* which he is free to question. For, as the people, in order to have a rightful authority to judge the Supreme Power in the State, must be viewed as already united under a universal legislative will, it can and ought not to judge otherwise than as its Supreme governor wills. To ask whether originally it was an actual contract which led to its subordination under that Supreme Power. or whether violence came first and law only followed, is, for a people which already stands under civil law to ask an aimless question ; and yet it is one that one day may be fraught with danger to the State. For, if the subject who has found historical proof that the latter of these hypotheses is the truth, were to proceed on the ground of his discovery to resist the established authority, he would, according to its laws, and that means with perfect justice, be destroyed or expelled as an outlaw. Now, a law which is holy and inviolable, so that practically even to question it, or for a moment to suspend its execution, is already a crime, is usually represented as one which has come, not from man, but from some higher immaculate law

giver. And this is the force of the dictum that 'all the powers that be are ordained of God,'—a dictum which is not meant to express the historical basis of the civil constitution, but an idea which is a practical principle of reason, that we ought to obey the existing legislative power be its origin what it may."¹ Individuals may not rightly rebel against the State.

Kant holds that the true form of the State is a Republic, and it is the duty of the sovereign power to bring the relations of the State into harmony with this ideal. In the ideal State the supreme legislative power should be exercised by the representatives of the people. The subject is then under a law which he himself enacts. It would seem from this that only the wills of all can constitute that universal will to which all must submit. The people must not themselves share in the legislative power, but only elect deputies to do so. But though the autocratic and aristocratic forms of government are defective, it is still possible that the spirit of a representative system should be maintained, the spirit which was at least expressed by Frederick the Great, when he said, "I am merely the highest servant of the State."

Kant is aware that there has been no actual contract to form a State. "The Social Contract," he tells us, is "a mere Idea of Reason, which, however, has its indubitable practical reality in that it binds every legislator to enact no laws but such as might have arisen from the united will of a whole people, and in that it regards every subject, in so far as he claims to be a citizen, as if he had given his personal assent to such a will. For this is the criterion of the justice of a law of the State. If any law is of such a character that a whole people could not possibly give its assent to it,—as, *e.g.* the law that a certain

¹ vii. 136; Caird, ii. 334.

class of subjects should have supreme authority in the State secured to them by inheritance—then it is not a just law. If, however, it is even possible that a whole people should agree to the law, it is a duty to regard it as just, even though at the moment the people be in such a position or temper that if they were asked they would probably not yield their assent.”¹

Free speech is the inviolable right of the citizens, and the sovereign is bound to enact every law that is needed for the maintenance of justice, and no law which is not so needed. The citizen has the right to seek happiness in his own way, and it is despotism if the ruler attempt to make his subjects happy according to his own judgment. All other constitutions find their ultimate justification in the fact that they prepare the way for a Republic. “The lower forms of the State are only the letter of the original legislation, and therefore they may remain so long as, through old and long custom, they are held to be necessary to the machinery of the constitution. But the spirit of the original Contract contains the obligation of the constitutive power to adapt its manner of governing to the idea of the State; or, if this cannot be done once for all, to make gradual and continual changes, till in effect the government is in harmony with the one rightful constitution, to wit, a Republic; and until all empiric forms which served only to secure the subjection of the people give place to the rational form which alone makes freedom the principle and the condition of all compulsion. In this way the letter will finally be accommodated to the spirit.”²

Rousseau, as we have seen, shows the result of the initial assumption that the individual has a universal

¹ vi. 329; Caird, ii. 339.

² vii. 158; Caird, ii. 341.

nature as an individual in his view that the consent of the whole people must be given to the Contract by which the State is supposed to be founded. It is true that he distinguishes the general will from the will of all, but he never gets rid of the initial assumption that society is constituted by an arbitrary act. It is because of this untenable position that he regards the consent of the whole people as necessary to valid legislation. Kant accepts this view, declaring that "only the agreeing and united will of all, in so far as each determines the same for all and all for each, can be legislative."¹ This would seem to imply that the Contract must be repeated from generation to generation; or if not, that the original Contract must endure for all time,—a conclusion which would deprive subsequent generations of all possibility of assent or dissent. We can only escape from this difficulty by denying the assumption of a Contract altogether, or interpreting it as a phrase expressing the fact that man's obligation to respect the law of the State is based upon his social nature, the recognition of which constitutes the justification for submission to it. If social life is essential to the realisation of man's true nature, it is irrational to leave the constitution of society to the assent of the individual will.

In violation, however, of the idea of a Contract, Kant maintains that it is right to force men to enter into society and to respect its laws. The general will is thus the law of reason to which the individual ought to conform. The social power may punish any refusal to obey the laws of the State, because these are an expression of that universal reason which constitutes the essential nature of every rational being. What this really implies is that man is essentially social. It is only through society

¹vi. 132.

that man can realise himself. The obedience of the lower to the higher nature of man is at the same time necessarily his submission to a social law. Only in society have men any rights, and rights are justified because they are the necessary conditions of the moral life. Morality is not the willing of the individual nature, but the willing of the social nature. If we separate morality from society, and suppose it to be a law by which the individual is an end to himself, it is not possible to go beyond the abstract rule to do one's duty for its own sake, and such a rule gives no guarantee of any specific duty whatever. Morality is essentially social, and the institutions of the State can be justified only as essential to the development of this social morality. It is true that the State cannot directly enforce morality, for the duties of men in society imply the willing of the social moral law; but the State can supply the external conditions under which morality can be achieved, and indeed this is its sole function.

The original error of making the State merely the result of Contract is further shown in Kant's attempt to assimilate the family and the State to a voluntary association. In his view of the *jus realiter personale* he speaks of the right to treat another as a thing. This is a violation of his own principle, that a being with a will cannot be treated as a thing which has no will. He tries to get out of the difficulty by saying that as a husband has a right over the wife, so the wife has a right over the husband. In this way he disguises the transition to the idea of the social whole as the expression of man's true nature. The husband and wife do not give up their will on the basis of any contract for particular ends, as in the case of ordinary contracts, but recognise the essentially complementary nature of one another as necessary to the higher life of each. It is not a question of any bargain by which

each gains a particular advantage by mutual concessions, but a method of realising the essential nature of each. This implies that in the family the individual, without ceasing to be free or to surrender his true will, realises a higher form of unity than is possible if each sought only to realise his separate personality. Here the individual is a means to the realisation of a social end; he is not an end in his separate individuality. This is very apparent in the case of parents and children, where each is reciprocally, apart from any expressed will, means and end to the other.

Similarly, in the State the individualistic separation of persons as ends in themselves, leading to the idea of a social contract, is transcended. On the social contract theory the will of all is the basis of the general will. But in truth the relation is not one of contract, but one of inseparable relation apart from any contract. It may be expressed by saying that it is the relation of a community of rational beings not externally bound together but organically connected. Unless it is recognised that man is an end to himself only in so far as he is a social being, we must fall back upon the idea that the basis of the State is force.

Man becomes conscious of himself only in and through his consciousness of other selves. He can only oppose himself to the other selves in so far as he is conscious of his unity with them. The conception of a person as a law and end to himself is not ultimate, though it has a relative justification. It is convenient to treat individuals as having rights that are mutually exclusive, but ultimately the right presupposes the common weal, and can be defended on no other ground. To say that individual rights must be enforced by the State in order to liberate man from the tyranny of his immediate impulses, is only to substitute one form of wrong for another. There

is no real compulsion in enforcing rights, because these are the expression of what a rational social nature demands.

Law, then, is the condition of the moral life, and though it is not a direct means of securing morality it promotes morality indirectly by taking care that no one shall interfere with the exercise of another's freedom. It has indeed to do only with external acts, not with the motive from which acts are done. If I interfere with the property of another, the State will punish me, whatever be my motive. Provided I respect the property of another, the State does not ask whether I do so because I have before my eyes the fear of prison, or because I regard the act as contrary to duty ; all that law can deal with is my outward act. Morality, on the other hand, demands that I shall act from regard for the moral law, which tells me that respect for another's property is a duty binding upon me as a moral agent. But it is not possible to separate the ground of moral obligation from the sphere of individual rights. For individual rights can be justified only by reference to the social good. No doubt each individual is conscious of himself as exclusive of other selves. On this ground it has been argued that society is composed of a number of exclusive selves, and that there is no such thing as a truly social self-consciousness. And of course there is no social consciousness separate and distinct from the self-consciousness of individuals. To say so, would be to hypostatise the abstraction of society, and to fall into the fallacy of mediaeval realism. But it does not follow that the common self-consciousness is not present in individuals as an idea. Just as there is no animal in general, or man in general, while yet there is a universal character or type of animal or man, without which the individual animal or man is inconceivable, so the principle of society is present in individuals, and

without it they would not be themselves or rational. If we suppose individuals completely isolated from their fellow-men, obviously they would never distinguish between themselves and others, and therefore would not think of themselves as in any way related to others. But to be conscious of oneself as different from others is to be conscious of a unity which makes possible the consciousness of the difference of oneself from others. Individuals who have nothing in common can have no relation whatever to one another. Identity is necessary to difference. Thus the self-consciousness of the individual overrides the distinction of oneself from other selves. The individual must be able to transcend his consciousness of himself so far as to conceive himself as possessed of the same fundamental nature as other self-conscious beings. It is in virtue of this power that he distinguishes himself from others, while yet he recognises that the distinction is not absolute. This fundamental character of a self-conscious being constitutes the social consciousness. True, society has no self-consciousness of its own which can be separated from the self-consciousness of individuals ; but society is present in each individual in the form of a comprehension of his identity with all others as well as his distinction from them. The consciousness of one's own states is not a possible object apart from the consciousness of others. It is true that we could have no knowledge of the self-consciousness of others were we not ourselves self-conscious. But we do not infer the existence of their inner selves from our perception of their bodily activities ; we interpret both the perception of their body and of their soul in the same way ; the only difference is that it is by a more complex process of interpretation that we become aware of their inner life than that involved in the interpretation of their bodily acts. We may by

an act of abstraction separate a sensation from the consciousness of an object ; but it is only when we conceive of the sensation as indicating an object, and so contrast ourselves as subject with the object that we become conscious of self at all. In self-consciousness we thus go back upon the presupposition both of the subject and of the object, and it is only by having the consciousness of an object that we become conscious of self. Thus it is in the return from the consciousness of other selves as objects that we become conscious of ourselves. A social community of life is therefore presupposed in our first consciousness of ourselves as individuals. No doubt this first consciousness of self appears to be rather the consciousness of the opposition of ourselves to others ; but, as has been said above, this opposition is relative to the consciousness of the fundamental identity in nature of oneself with the self of others. Not unnaturally we are apt to think of ourselves as limited by other beings against whom we affirm our independence, not seeing that we can only gain real independence by a recognition of the just claim of others to be a self like ourselves.

Now Hobbes, misreading the real relation of the self to other selves, adopts the view that by nature man is absolutely unsociable, being occupied solely in the endeavour to satisfy his immediate impulses. From this point of view law and morality are merely expedients for expressing the egoism of individuals. There is an unlimited desire for gain and glory, which in a finite world can only lead to a *bellum omnium in omnes*. In the first return of the self from the objective world the self affirms its independence and refuses to recognise any claims of other selves. The immediate self of desire claims complete satisfaction for itself, not seeing that only in unison with others can the self receive satisfaction.

Kant on the other hand denies that the individual is related to other individuals in an absolutely negative way. A man voluntarily limits himself, recognising the just claim of others, and therefore he only demands that others should recognise that they also must limit themselves in a corresponding degree. Thus on his view a reciprocal self-limitation preserves the independence and secures the freedom of each. In his inner life each is self-determined, while in his outer life he limits himself relatively to others, on condition that they shall similarly limit themselves. There is no possible collision in the inner life, where each is alone with himself, but in the outer life conflict is inevitable, and can only be allayed by the establishment of a Power armed with force to protect individuals from each other.

The defect in this point of view is that it postulates a fundamental discrepancy between different self-conscious beings. Self-consciousness is supposed to be not a unifying but a separative faculty, and therefore it is by a voluntary surrender of it that order can be introduced into the world. In truth the State is not the result of any self-surrender of an original opposition, but the recognition that such an opposition is one-sided and abstract. The State is neither a despotism, forcing individuals to submit to its commands, nor is it an arbitrary agreement of individuals to protect their personal rights by making concessions to others ; it is the recognition and realisation of the essentially indivisible nature of the consciousness of self and the consciousness of other selves. The general will of which it is an expression is the essential nature of the wills of individuals. In other words, the recognition of rights is a lower form of the principle of social morality. Society exists for the purpose of realising the moral life, and by this test it must be judged. It can never directly attain its end, because

it acts only in the world of external deeds ; but it can establish the conditions under which the higher life of morality may be attained. Morality cannot be identified with the laws of the State, as if there were no higher law. That was the defect of ancient patriotism, which made no distinction between the duty of man as man and the duty of man as citizen. Nevertheless the laws and customs of society are the foundation on which the higher law of morality rests. Starting from this fundamental level man returns upon himself and gains a higher point of view. The laws of society are based upon reason and derive their authority from reason ; but reason cannot be satisfied with this first expression of itself, and thus there arises the consciousness of a spiritual law transcending the law of the State, and based upon the idea of humanity.

There can be no absolute separation of jurisprudence and morality. We distinguish the sphere of the one from the sphere of the other, but both presuppose the unity of a single principle. In the sphere of so-called private rights, both rights and duties are the result of the reciprocal limitation of persons, who within these limits live an independent life. But in the sphere of the family and the State the individual is the organ of a social principle which is expressly recognised to be above the individual will, not because it is contrary to that will in its essence, but because it is the fuller expression of it. The magistrate's right is to administer the law, and it is his duty to do so ; the citizen's duty is to serve the State, while it is the function of the State to protect his rights against all aggression, as the necessary condition of his higher life. So far as the State fails in this task, the individual has the right to protest against its action, and to employ all constitutional means for raising it to a higher level. The citizen is entitled to oppose the acts of its representatives, if these

are contrary to the idea of the State, just as he is entitled to put forth his best efforts to make it conform more closely to its idea. But until we have reached a higher form of sociality, the supreme court of appeal is the State, all other forms of organisation being subject to its authority. This in no way interferes with the legitimate operations of subordinate groups, so far as these do not contradict the basis of the State ; but it is not compatible with disloyalty to the sovereign power itself, which expresses the general will of the community. Every subordinate form of organisation implies a general will, only differing in degree from the general will of which the State is the embodiment, and it may fairly be argued that the formation of such groups is a condition of the increased perfection of the community. But, while such specification is quite in harmony with the nature of things, we must not forget that it must not be antagonistic to the unity of which the State is the guardian and the expression. Subordinate organisms may very well come into collision, and it is the function of the State to reconcile them with one another ; and just as the State is the supreme arbiter between various groups within itself, so it is supreme in relation to other States. A State must be autonomous or self-governed, otherwise it ceases, to the extent at least in which it is interfered with, to be a State. This does not mean that it may not agree to suggestions from a foreign State, but it does mean that it cannot be forced to accept these suggestions by pressure from without. Nor does freedom or autonomy mean that a State must think only of its own selfish interest, *i.e.* an interest incompatible with the good of other States. There is nothing in autonomy to interfere with the widest possible conception of what is best for mankind as a whole, unless we assume that what is best for mankind is necessarily antagonistic to the good

of a particular State ; but the recognition of this wider good must be freely made by each State, not forced upon it at the cannon's mouth. An absolutist State claiming to have a right that transcends all other States is a contradictory idea. Not only is such an idea incompatible with the community of States, each of which, to be a State, must be autonomous but it is inconsistent with its own good. The State does not and cannot determine the whole spiritual life of its own people, not to speak of other peoples ; its function is to secure to the community those rights without which the best life cannot be lived. All obstacles to the promotion of this best life it is its duty to remove, but it is not the business of the State to tell the citizens all the ways in which they may best promote this best life. The free participation of the individual in the work of the State is essential to the security of his rights. The State cannot prescribe all a man's duties, because to do so is to prevent him from completely realising himself. Thus in two ways the State may be said to be limited ; it cannot treat other States as subordinate, and it cannot determine the whole life of the citizens. Nevertheless, within its own sphere each State is supreme, both over its own citizens and in relation to other States. How far the State can be said to be subject to the ordinary rules of morality binding upon the individual must be considered later.

In his history of philosophy Hegel has a passage which is significant of his distinction from Kant and Fichte. " Kant," he says, " began to found right on freedom, and Fichte too in his Natural Right made freedom his principle ; but it is, as in Rousseau, the freedom of the particular individual. This is a great beginning ; but in order to get to particular results they were obliged to accept pre-

suppositions. The universal for them is not the spirit, the substance of the whole, but the external mechanical negative power against individuals. . . . The Individuals remain always hard and negative against one another ; the prison-house, the bonds, become ever more oppressive, instead of the State being apprehended as the realisation of freedom.' ¹

Hegel as well as Kant starts from Rousseau's conception of moral freedom as the peculiar and distinctive quality of man. The defect, to Hegel's mind, of Kant's conception of freedom is due to his opposition of morality and individual rights, leading to a purely subjective view of the former and a negative and abstract view of the latter. When morality is conceived as the mere willing of duty for duty's sake, it becomes logically incapable of being realised outwardly, and can never get beyond the perfectly empty and general law to do one's duty. This fundamental defect arises, Hegel argues, from the separation of reason from desire. For, when the natural impulses are regarded as the negation of reason, it is not possible to spiritualise them, and thus the will is emptied of all content. Similarly, Kant's isolation of the individual, who is declared to be an end in himself, results in the conception of rights as attaching to individuals in their separation from one another, and leads to the conception of the State as an external power, the function of which is to keep individuals from interfering with the rights of one another. Thus, on the one hand, freedom is conceived as purely subjective, residing, as it is held to do, in the inner world of intention and conscience, where it can find no outlet without surrendering its autonomy ; while on the other hand rights can only be defended as imposed externally by the State

¹ *Gesch. d. Phil.* iii. 576, quoted in Bosanquet's *Phil. Theory of the State*, p. 247.

as a means by which the isolated individual is maintained in his isolation and independence of others. Moral rules are absolutely universal and admit of no possible exception, and rights are equally incapable of violation. Hegel seeks to do away with this opposition of morality and law, endeavouring to show that true freedom involves the outward realisation of what is inwardly demanded by reason. The condition under which this realisation takes place is by means of society and the State. Inner freedom becomes real only by being realised outwardly in a series of manifestations; in law, in the rules of morality, and in the whole system of institutions and influences that make for righteousness. This is the system of Social Ethics (*Sittlichkeit*), in which the inwardness of morality and the mere externality of law are reconciled. The State is not conceived any longer as a mere device by which separate individuals are kept from interfering with each other's rights, but as the highest expression of the reasonable will, the will which aims at the general good of the whole. It does not rest upon any Contract, but is the embodiment of the free self. This does not mean that there is nothing higher than the State, but it does mean that there is no organised community to which the State is subject. Morality, religion, and philosophy go beyond the organism of the State, but within its embrace it holds the family, the civic community and all the institutions by which man in society realises his highest interest. Thus, in Hegel's view, the State is the unity of all the other social functions, and it has as its special task to harmonise these with one another. This it is entitled to do, because it simply expresses in law what is the burden of the sentiments and ideas working in the mind of the citizen. True, the State may pass laws that are not recognised by every citizen as reasonable, but this is no objection to its legisla-

tion so long as these laws really express the essence of the general mind. If it is objected that this view makes the State infallible, Hegel answers that he is not claiming infallibility for any existing State, a claim which is contradicted by the fact that the State is continually developing from lower to higher ; what he is asserting is that the State as a whole is the custodian of the conditions under which a given people manifests its ideal ends. "Every State," says Hegel,¹ "even if your principles lead you to pronounce it bad, even if you detect this or that deficiency in it, always has (especially if it belongs to the more developed States of our time) the essential moments of its existence in it. But because it is easier to discover defects than to grasp the affirmative, people easily fall into the error of allowing particular aspects to lead them to forget the inner organisation of the State. The State is no work of art ; it stands in the world, that is, in the sphere of caprice, accident, and error ; evil behaviour is liable to mar it in many respects. But the ugliest human being, a criminal, a sick man, or a cripple, is all the same a living human being, the affirmative, his life, persists in spite of the defect, and this affirmative is what we are concerned with here." Every State, in short, will display the three spheres of Right or Law, of Morality, and of Social Observance, and defects in these do not take from it the character of a State. If it is objected that this is to identify the State with the Community, Hegel would answer that any other view falls into the error of identifying it with the Government. The State, it is true, does not determine by legislation how men are to act in all cases ; its function is to maintain the conditions under which society must be carried on. A modern State will not allow, for example, polygamy or slavery, it will not allow intercourse with

¹*Phil. d. Rechts*, p. 313 ; Bosanquet, p. 250.

foreigners under conditions which threaten its own existence ; but it does not prescribe the rule of conduct of the citizens as moral beings except in so far as it rules out certain actions as hostile to the common weal. Being thus the custodian of the conditions under which all the institutions of society are carried on, and adjusting their relations to one another, these must, Hegel would say, be regarded as forming an integral part of the State or Nation. Of course a distinction may be made between the Community and the State, such as is made by Professor MacIver in his interesting work *The Community*, but this seems to me largely a matter of terminology. No doubt the citizens of a given State may form a union with those of other States, but they cannot do so unless their own State allows it. This point we shall have to deal with more thoroughly afterwards, at present it is enough to say that the State, as conceived by Hegel, in its widest sense includes all other social groups. This is an application to the modern State of the idea involved in the ancient City-State. The fundamental distinction is that the modern State works through the actual consciousness and rational will of the citizen, not through custom and usage.

The first form in which the will is realised outwardly is in relation to property, where things, which have no will of their own, become organs of life by the will of the persons being expressed in them. This is by no means a full realisation of the free will, but is based upon the idea of abstract personality. Hence each person is inviolate to all other persons. The only conditional rule is of a negative character ; it is prohibition not to entrench upon the personality of another, and therefore not to interfere with the object in which his will is expressed. All rights are therefore personal, as depending upon the conception

of man as man, not, as in the Roman law, upon special privileges. Property cannot be defended on the ground that it is necessary to the satisfaction of the individual's needs, but only on the ground that it is the first form in which the subject realises himself outwardly. Thus in property the personality of a man is by no means completely realised, but property is the essential condition of the higher realisation of personality. Hence a communistic view of property is contrary to freedom. And as body and soul are inseparable, slavery is a violation of a man's right as a person. While property is essential to the realisation of personality, it does not follow that all persons should have the same amount of property; the amount must depend on the intelligence and industry of the individual

As property is exclusive possession, I may exchange it for an equivalent, and thus arises Contract, which is an agreement of persons about an external thing. As the will here exercised is arbitrary, it is not yet the general or universal will, but only the "common will." Disputes may take place in regard to the person to whom a given piece of property belongs, and thus arises the civil suit, the object of which is to determine the justice of the several claims as compared with each other. Fraud, on the other hand, is the intentional violation of a right while pretence is made to respect it, and Crime again is the negation of all right as expressed in this particular instance. The wrong cannot be atoned for by a particular will, but must be abolished by a disinterested authority that inflicts punishment for the wrong.

Rights of property cannot be regarded as absolute, and therefore as sacred under all conditions; for rights are ultimately justifiable only as a means of realising the general good of the whole. We have to view property

in relation to the living spirit, not in its bare letter. Law must be regarded as part of a living system, which ultimately rests upon the will to maintain a certain type of life. The order of law and property is found to break down at a certain point. The conscience of the individual claims to be higher than that which is embodied in law, and insists upon its right to oppose what it cannot accept. Here we have the conflict of the inner self with the outer world—a conflict which is shown historically in Stoicism and in some forms of Christianity, more especially of Protestant Christianity. This abstraction of the good will is expressed by Kant in the doctrine that “Nothing can be conceived which can be called good without qualification but a good will.” Hegel’s objection to this doctrine is in essence, that will conceived in this abstraction cannot be connected with any definite course of action whatever, and is apt to lead to the sophistry of “pure intention,” by which any course of conduct may be plausibly justified. But, one-sided as this conception of the good will is, it gets its apparent force from the fact that an intelligent being can acquiesce only in what enters into the object of his will. The subjective will has its own claims; but it is to misread them to interpret that will as absolute in its pure subjectivity. What it really points to is the union of the subjective and the objective will, and this union is found in what Hegel designates as the Ethical System (*Sittlichkeit*). Will is realised in objective institutions and operates by the free assent of the individual to them.

Social Ethics, then, is the union of the subjective and the objective. It corrects the one-sidedness of both, transcending the outwardness of law and the inwardness of conscience by bringing the will of the individual into harmony with the general rational will. In practice this results in the

acceptance of the moral usages in which the individual realises his freedom. This social morality is expressed in the spirit of a nation. Man recognises that his personal good is to be found in the good of the whole, and thus he freely and spontaneously wills that good. Thus the idea of freedom is developed into an actual world, which is at the same time the embodiment of his intelligence and will. It is an actual world, because it is expressed in the bodily habits and external actions of a people. The rules and traditions of a nation are as objective as "sun, moon, mountains, rivers, and all objects of nature." Man lives by them without, as a rule, any direct consciousness of them. They form what may be called the body of the moral world. Nevertheless these laws of living are the expression of man's rational and self-conscious nature. They form a system and are not a mere abstract idea of a good which is not specified. For this reason the individual finds himself realised in the performance of the special duties belonging to his place in the whole. By fulfilling the duties of his station he contributes to the common good. No doubt he does not realise all that is implied in his relation to the whole, but he is ready to sacrifice his particular desires for the whole. The ethical system is thus the soul of the moral world. Social action is not "virtue," in the ancient sense, as something due to exceptional gifts of nature or fortune; rather it consists in the discharge of the duties of one's station, of which no man may boast. Boasting is excluded, because a man does not boast of realising what his own nature demands that he should realise.

The system of social ethics is expressed in three forms, each of which implies a different mood or disposition, namely, the Family, the Civic Community, and the State in the narrower sense of the term, *i.e.* the Political Organism.

In the organism of society the Family is nearest to the natural world. Resting upon a natural basis, it receives a spiritual meaning, which shows itself in the unanimity of love and trust of its members. Mind appears in the form of feeling. The natural distinction of sex is at the same time a difference of intellectual and moral type. This combination of two personalities in one person is essential to the good of the whole. Thus the Family is an essential form of society, to supersede which would destroy the concreteness of the social life. It differs from the State proper, where the bond is not so much feeling as clear intelligence law and system. Hence Hegel, like Aristotle, rejects theories, such as that advocated in Plato's *Republic*, which assimilate the State to the Family. The Family does not rest upon mere feeling, nor is it a mere contract ; it exists for the training of children to fit them for public duty, and its public aspect is properly recognised by a public declaration of an acceptance of the responsibility, which is an essential part of marriage. The equal relation of the heads of the household is implied in their equal responsibility, and therefore only the monogamous family can properly fulfil its function as the preparatory organ in the social whole. When a man or woman arrives at maturity, a new form of life begins ; he or she enters a world of conflicting interests, where a living has to be made or property administered. Thus arises what Hegel calls the Civic Community (*Bürgerliche Gesellschaft*). This is the system of limited aims and self interest, where a man has to find his work and do it.

The Civic Community actually is a combination of individuals each of whom is seeking to attain his own ends. Thus it differs from the Family, in which a common purpose prevails ; and from the State, which is an embodiment of the general will. Thus free play of the individual

is characteristic of the modern as distinguished from the ancient State. It is found by the individual that he can only secure his own good by respecting the well-being and rights of others. In the Civic Community scope is given for the exercise of various talents and for differences of birth and fortune. The individual has the right to develop himself on all sides, but he is subject to the power of the whole. When free rein is given to the selfish desires of the individual, it leads to the destruction of society; while on the other hand the absorption of the individual in the State, as suggested in Plato's *Republic*, does not lead to the best form of the State. To exclude private property and the family as well as all choice in the matter of a profession, as Plato would do, destroys the strength and flexibility of the community. The civic community is not simply a means of satisfying the natural wants: it is a process by which man gains a mastery over nature, putting his own stamp upon the natural object. The struggle of man with nature is at the same time the struggle with his immediate desires. A man must attach himself to a definite kind of service, and this is a great training in civilisation. The process is severe, but it is indispensable if we are to have true freedom. It turns out that the insecurity which seems to be implied in dependence on the vast system of wants is not really insecurity, but results in the highest stability. Spiritual wants in society become predominant, so that man makes his own necessity.

Labour is the means by which particular wants are provided for, demanding as it does quickness of apprehension and the cultivation of the intelligence. By occupying oneself with some particular form of activity special skill in the performance of a particular task is developed. At the same time the reciprocal relations of men are multiplied,

and machinery is constructed which takes the place of human labour. In seeking to satisfy himself man contributes to the satisfaction of others, and this leads to the production of wealth. The share of each in the general wealth is left to individuals, but the differentiation of the civic community demands the distinction of classes. There is first of all the substantial class, which obtains wealth from the natural product of the soil. Though the pursuit of agriculture still retains the general characteristics of the patriarchal life, in our day it has largely become an industrial process. The industrial class is occupied in the formation of natural products by means of the labour of manual workers or of skilled workmen. The feeling for freedom and order is felt most strongly by this industrial class and arises in cities. A third class is concerned with the general interests of society, and must have either private means or be supported by the State. Natural qualities, birth and circumstances determine the class to which a man belongs. In this respect the modern world is distinguished from the ancient. By recognising the rights of the individual the modern State stimulates thought and tends to ensure that men will be promoted by merit.

The citizen is not really detached, as he is apt to think he is, but is sustained by the general life of the State. The civic community is not separate, but can exist only within the State proper. It represents human nature in a special and comparatively narrow aspect. In the first place, it involves the administration of justice. The system of law of a modern State regulates in a fairly reasonable way the rights and relations of persons. By being expressed as law right assumes the form of universality. It is a mistake to say that customs are superior to laws, for laws by being written down and collected become

explicitly present to consciousness. The collisions which arise in the application of laws to special cases prevent the development of law from becoming merely mechanical, since they stimulate thought and lead to a revision of existing laws.

Out of the interests of the civic community arise State regulation and Trade Societies. The ordinary principle of industrial society is that of supply and demand, but as this in some cases leads to accidental hindrances to the best life, the State has the right to step in and protect the general good against such accidents. The Trade Society approximates to the unity of the State, since it seeks to determine what is required in the interest not of the individual, but of the class. As a member of his class or estate the citizen comes to conceive of his particular interest as bound up with the interest of his fellows. He also learns to honour the member of his Trade Society or Corporation who fulfils his task in a workmanlike way, and he is insured against misfortune and receives the training required for his special task.

In the State proper or Political Constitution the Family and the Civic Community find their completion and security. Here the ethical idea is no longer implied but is explicitly realised. It is only when the State is identified with the Civic Community that its sole function is held to consist in providing for the security and protection of property and of personal freedom. In truth the individual cannot realise his true nature except in the State. It is therefore an error to regard the State as based upon the common will as directed to the greatest personal good of the citizens. It rests upon the objective or rational will, not upon the personal will, or upon external necessity, such as the need for defence against enemies, or the production of wealth. The State cannot be justified by its strength. The only

true Might is Right, that which is ethical and just. Its foundation is the power of reason realising itself as will.

Every State is by its essential nature individual and independent of all other States. The Modern State, by allowing the greatest freedom to the idiosyncrasies of individuals consistent with its own unity, has tremendous strength and depth. In one respect it bears the aspect of an external necessity, prescribing the laws regulating the Family and the Civic Community ; but its power lies in the unity of its final aim with the interest of individuals, who have duties towards it just so far as they have rights. Slaves have no duties because they have no rights. The individual must find his personal satisfaction in the discharge of his duty, and from this relation there grows up a right by which his special interest becomes part of the common good.

There must be Institutions by which the union of the personal will with the common good is realised. Subjectively this is the political temper, and objectively the Constitution of the State. The political temper is not the mere disposition to make special sacrifices for the good of the whole, but the disposition to make the common good the motive of everyday action, out of which springs the willingness to sacrifice even life itself for the good of the State. What holds the State together is not force, but the deep-seated feeling of order in the mind of the citizen.

The Political State involves the Legislative Function, the Government and the Princely Function. In a Constitutional Monarchy there is realised the union of what in ancient times was distinguished as Monarchy, Aristocracy and Democracy. The essential thing is that the principle of free subjectivity should be recognised. It is not possible to make a Constitution, because it must originate freely from the character of the people. Every nation has the

Constitution which suits it. Napoleon offered the Spaniards a better Constitution than their earlier one, but it was rejected, because the people were not ready for it.

The State is an organism in which there is only one life, and therefore the classes, powers and corporations within it must be subject to the State, in accordance with the principle that its end is the realisation of the common good. Moreover, the particular offices and agencies of the State are the mouthpieces of the whole. The individuals who control these agencies must have a natural capacity for their particular office and be specially trained. The unity produced by the subordination of the various agencies, all working with a single eye to the common good, is the basis of the Sovereignty of the State. This Sovereignty is not Force, but Rational Will. What gives countenance to the idea that Sovereignty is Force is the fact that the State adjusts the relations of private life, of the family, and of the economic world. It may intervene to remove obstacles in the path of the common good, though it is characteristic of the modern State as distinguished from the ancient that it allows the family feeling and the individual interest to have the freest play compatible with the common good. Essentially, however, the State is the indwelling principle which is working in these in a less explicit form, being the embodiment of the real will of the people. The division of functions is necessary to the rational organisation of the whole. Sovereignty does not reside in any one element, but in the harmonious working of each factor of the Constitution. In times of peace the particular spheres are not interfered with; but in periods of distress, whether from internal or external causes, the Sovereignty inherent in the idea of the State must interfere even at the sacrifice of that perfect freedom of action which at other times is allowed.

Hegel maintains that the personality of the State must be embodied in a single person, the Monarch. The whole essence of the State must be, so to speak, brought to a focus. The Monarch expresses the "I will" which is necessary to the actualisation of the intelligent mind of the community. A hereditary Monarch tends to raise the State above faction. We cannot properly oppose the Sovereignty of the people to the Sovereignty of the Monarch. Apart from the Monarch, who expresses the articulation of the whole, we have only a formless mass, which is not a State, and has none of the marks that distinguish the organism of the State—namely, Sovereignty, Government, Law-courts, Magistrates, Classes, etc. What the State has to express is not any mere agreement of particular wills, but the reasonable will of the whole people. When it is said that the Monarch by his "I will" brings this reasonable will into actuality, it is not meant that he may do what he pleases; he must consult his advisers, and when the Constitution is established he has often nothing to do but to sign his name. "He puts the dot on the 'i'". But this apparently formal act is really essential to free individuality.

There must be an Executive to carry out the decisions of the Monarch and to apply existing laws and regulations. The Executive includes the Judiciary and the Police. The private interests of the civic community are subject to corporations or societies, trades and professions, in which the members have confidence; but their authority rests upon and is subordinate to the higher interest of the State, and must be ratified by the State. Thus the spirit of the Corporation is universalised.

The principle of the division of labour is implied in the appointment of Boards, which are distinguished as superior and inferior. The members of these Boards are

appointed for their fitness, so that any citizen may be elected to serve on them. They must have no private ends to serve, but must find their good in the discharge of their public duties. The security of the State against the misuse of power on the part of Bureaus lies in their responsibility for their acts and in the check supplied by the Corporations, which supplement control from above.

The legislative power deals with the laws as such, and with internal affairs. The foundation of its power is the Constitution, as developed by the progress of civilisation. In the legislative power as a whole there are two elements, the Monarchical and the Governmental. To the former belongs the ultimate decision, to the latter definite knowledge and oversight of the whole. When it is argued that the people best understand what is for their good, it must be replied that the people often does not know what its real will is. This knowledge is the fruit of insight and education. The highest State officials have a deeper and more comprehensive insight into the needs of the State than the people at large. Between the Government and the people stand the classes, which exercise a mediatorial function. In despotic States, where nothing stands between the Prince and the People, the People act merely as a disturbing element, whereas by the intermediation of the estates they obtain their interests in a legal and orderly way. Representation is of bodies or interests rather than of masses of individuals, and the Corporations or Trade Societies have an important place in the community because of their contact with the various departments of the executive government.

Publicity of discussion in the assembly of the classes of estates is the great means of instruction in the general interests of the State. It is in this way that what is called "Public Opinion" arises. We may be sure that

public opinion will ultimately endorse any reasonable view. It is not true that everyone knows what is for the good of the State, and has only to go down to the House and utter it. By public discussion, "where one shrewd idea destroys another," private views are brought into harmony with the principle of the common good. The value of a given opinion cannot be judged by the degree of passion with which it is held, but only by the insight which divines what the public really desires, that is, what is its real will. It is this power of divination that gives a man great political eminence. At the same time, by the right of public expression the impulse of self-assertion is satisfied, and there is all the more likelihood of acquiescence in what is done when a man feels that he has contributed something to the settlement of the question.

The State is a self-sufficient organic unity. As such each State is exclusive of other States. It is therefore the duty of the members of a State to assist in maintaining the substantial individuality, the independence and Sovereignty of the State, by the willing sacrifice of their life and property, not to speak of their private opinions. Herein lies the ethical element of war, which must not be regarded as an absolute evil due to the passions of the ruling powers or of the people. A perpetual peace would lead to the internal corruption of the people. As a matter of fact successful wars have prevented internal unrest and have strengthened the power of the State. Those nations which have refused to submit to the Sovereignty of the State have been subjugated by other nations, due to their inability to establish within themselves a central power. Their freedom dies from fear of dying. Kant proposes an alliance of Princes to settle disputes of States, and the abortive Holy Alliance was very much an institution

of this kind. Even if there should be formed a family of States, the result would be to create the opposition of other States not included in the family, and thus to lead to fresh disputes and wars.

So far as the State is in danger of losing its independence, it is the duty of the citizen to come to its defence ; and to make this defence effective there must be a special class devoted to the conduct of war and distinguished by their courage. The necessity of the military class is due to the same necessity as that which gives rise to the family, industrial society, the political class, and the business class. True courage in the modern State consists in readiness to sacrifice oneself in the service of the State and to submit to what is necessary in an organised army. Mere courage is not enough without this supreme motive. The value of courage lies in its subservience to the absolute end, the sovereignty of the State. Here we have the most complete union of opposites : a self-sacrifice which is true freedom ; perfect self-control and submission to mechanical order ; the absence of personal aims, along with the most intense devotion ; the most hostile action against individuals, together with indifference or kindly feeling towards them as private persons. The mere risking of one's life has no ethical value ; its value lies entirely in the cause for which life is risked.

It falls within the province of the Princely power to command the armed force of the State, to enter into relations with foreign powers through ambassadors, and to declare peace or war. A State is so involved with several other States that the declaration of peace or war can only be properly undertaken by the Head of the State.

As States are not private persons, but independent totalities, their relation to one another is different from the morality binding upon private individuals. In the case

of private individuals, there is a Court to settle their disputes impartially and to determine what is right. No doubt the relations between States should be intrinsically just, but there is no Power distinct from the several States which can decide what is intrinsically just. Thus justice as between States must always remain an ideal, and any stipulations they make with one another can only be provisional. One State should not interfere with the internal affairs of another, but the individuality of a State implies its recognition by the others, just as the individual apart from his relation to others is not an actual person.

Between different States Contracts may be made, which, however, are much less complex and varied than those entered into between individuals in the civic community. The obligations of States towards one another rest upon Treaties which should be kept inviolate. But as there is no will higher than the sovereignty of each State, a Treaty may be altered in consequence of a change of circumstances. When therefore States cannot agree upon some disputed point, the conflict must finally be decided by war. The complicated relations of the citizens of different States to one another naturally lead to the conviction that a Treaty has been violated, all the more that a State may hold its honour to be involved in any one of the relations. Besides, the particular injury may be regarded as indicating a threatened danger, and, especially if there has been a long peace, there is a tendency to suspect the ultimate intentions of the other State. The object of a Treaty always is to secure the well-being of the State with its particular interests.

The fact that States mutually recognise one another implies that there is a bond between them even in war, when force and contingency rule. International Law implies the possibility of peace, war being understood to

be only temporary. Hence ambassadors are respected, and it is understood that war is not made against the internal institutions of the foreign State or against peaceful families and private citizens. Modern wars are therefore carried on humanely, and without personal hatred. The nations of Europe form a family of nations by the general principles of their legislation, their ethical customs and their culture. Thus among them international behaviour is ameliorated.

CHAPTER SEVENTH

THE NATION-STATE (*continued*) : BENTHAM, JAMES AND J. S. MILL AND HERBERT SPENCER

IN contrast to the Universalism of Hegel stands the Individualism of BENTHAM and his followers, the two Mills and Herbert Spencer. When Bentham began to write, the *Natural Rights of Man*, of which so much is said in the American and French Declarations of Rights, had in England ceased to exercise on men's minds their potent spell. He has no more faith in any indefeasible right of man than Burke, the spokesman of Conservatism. Man, Bentham declares, has no natural rights whatever : he has only inclinations, desires and expectations. "Rights properly so called," he affirms, "are the creatures of Law properly so called, real laws give birth to real rights." We shall best appreciate the strength and the weakness of Bentham by regarding him as a man whose main interest lay in finding effective means for the improvement of society. It is with this object in view, and not from any purely speculative interest that he makes an elaborate classification of the various pleasures which serve as motives to action ; and his continual insistence on the principle that "every one is to count for one and no more than one" proceeds from the same generous impulse. He is the uncompromising critic of all ascetic and altruistic doctrines, maintaining that ultimately the only motive to conduct is regard for one's own personal interest. We

must distinguish between the motive to an act and the intention with which it is done. "A motive," he says, "is substantially nothing more than pleasure or pain, operating in a certain manner." Moreover, "Pleasure is in itself a good, nay, even setting aside freedom from pain, the only good ; pain is in itself an evil, and indeed without exception the only evil. And this is alike true of every sort of pain and of every sort of pleasure. It follows that there is no such thing as any sort of motive that is in itself a bad one." The value of an act consists entirely in its tendency to produce pleasure or to avert pain. The only thing that can be called either good or bad is not the motive from which a man acts but his disposition ; but then again the disposition is good or bad according as it tends to produce or to result in pleasure or pain. Goodness and badness thus depend entirely on the disposition of the agent as determined by the view taken of his act combined with the view of its consequence. "On the occasion of every act he exercises every human being is led to pursue that course of conduct which, according to his view of the case, taken by him at the moment, will be in the highest degree contributory to his own happiness." Bentham distinguishes between "private ethics" and the "art of legislation," endeavouring to determine the limits of each. "Ethics at large may be defined as the art of directing men's actions to the production of the greatest possible quantity of happiness." Private ethics is the art of self-government, legislation the art of directing the actions of other agents so as to produce a maximum of pleasure on the whole. The quality which a man manifests in discharging his duty to himself is that of prudence ; to forbear from diminishing the happiness of one's neighbour is probity ; to add something to his happiness is beneficence. If it is asked why I should obey the

dictates of probity and beneficence, Bentham's answer is, that while the only interests which a man at all times and upon all occasions is sure to find adequate motives for consulting are his own, yet there are no occasions in which a man has not some motives for consulting the happiness of other men. In the first place, he has, on all occasions, the purely social motive of sympathy or benevolence ; in the next place, he has, on most occasions, the semi-social motives of love or amity and love of reputation. The motive of sympathy will act upon him with more or less effect according to a variety of circumstances, principally according to the strength of his intellectual powers, the firmness and steadiness of his mind, the quantity of his moral sensibilities, and the characters of the people he has to deal with. As private ethics and legislation have the same end in view, namely, the happiness of every member of the community, to a certain extent they go hand in hand. How then do they differ ? They differ in so far as the acts with which they are concerned are not perfectly and throughout the same. " There is no case in which a private man ought not to direct his own conduct to the production of his own happiness, and of that of his fellow creatures ; but there are cases in which the legislature ought not to attempt to direct the conduct of several other members of the community. Every act which promises to be beneficial upon the whole to the community (himself included) each individual ought to perform of himself, but it is not every such act that the legislature ought to compel him to perform."

It may be asked how we are to prove that the pursuit of happiness of the greatest number will result in the greatest happiness of all. No doubt if we assume that all men are equal, the identification of the " greatest number " with " all " will directly follow ; but this line of thought

was not open to Bentham, for the supposition of the equality of men he regarded as one of the most pernicious and anarchic fallacies. Why then should we regard the majority or the "greatest number" of Bentham as if they could be taken to represent the whole community? De Toqueville concluded from his survey of the United States that the fundamental principle of democracy is equality. This view Bentham decidedly rejects. The public good, he maintains, demands that society should provide subsistence and abundance, as well as equality and security; but it is his view that when the pursuit of equality comes into collision with security, "it will not do to hesitate for a moment. Equality must yield." The truth is that Bentham practically dismisses equality, and, for purposes of legislation, treats fellow-citizens as equals. Thus he employs the formula merely as a working rule for legislation. He does indeed argue that to increase a man's means is to increase his happiness; but at the same time he admits that this increase is by no means in proportion to the increase in wealth. Nor can it be said that the bestowal of political rights must of necessity lead to the greater well-being of the individual or the community, irrespectively of that intelligence and public spirit which alone make these privileges valuable and just.

Like Bentham, JAMES MILL's interest was not so much intellectual as practical, and indeed his psychological investigations were primarily conducted with this definite social end in view. Bentham was satisfied with a crude form of psychological hedonism, which he identified with egoism, and he made a very imperfect reconciliation of egoism and altruism. The aim of James Mill was by the employment of the principle of Association to show that there is nothing in the principle of Utility, the principle

that the true aim of the individual is the "greatest happiness of the greatest number"—to preclude the possibility of altruistic or disinterested conduct. This he seeks to do by distinguishing "inseparable" from other forms of association. The former, he holds, may convert what at first is merely a means into an end that is sought for its own sake. He is also original in interpreting the result of the association of various mental elements after the analogy of a fusion of chemical elements. In this way he believes that it is easy to show that the intuitional or "moral sense" view of conscience is untenable, the truth being that moral judgments are at bottom based upon the principle of Utility. Like Bentham, of whom he was a devoted follower, James Mill sought to apply the principle of Utility in many departments of philanthropy and politics. He may be regarded as the intellectual father of the English Reform Bill of 1832. He was not, however, an advocate of the immediate adoption of universal suffrage, but sought only to secure the emancipation of the middle classes. His view was that the extension of the suffrage to the working classes must be gradually prepared for by the spread of enlightenment and education. Like Bentham he thought the most important thing was that men should have an enlightened sense of their own interests; which means that the principle of Utility is beyond the region of doubt. His advance on Bentham consists mainly in his attempt to place the principle common to both upon a more definite and stable basis.

In his *Ethics* JOHN STUART MILL displays the same combination of wide outlook and narrow theory as in other parts of his philosophy. To the last he maintains in words the hedonistic and utilitarian doctrine which had come down to him from Bentham and James Mill. In his

Utilitarianism he tells us that the foundation of all moral action is the desire for pleasure and freedom from pain, and that "all desirable things are desirable either for the pleasure inherent in themselves or as a means to the promotion of pleasure and the prevention of pain."¹ The pleasure, or happiness, however which is the end of life is "not the agent's own greatest happiness, but the greatest happiness altogether."² Moral feeling induces us to strive for the promotion of happiness even when the happiness is not our own. It may be objected that, even granting that men do as a matter of fact always seek for happiness, it does not follow that they are right in doing so. To this objection Mill answers: "The sole evidence it is possible to produce that anything is desirable is that people actually desire it. . . . No reason can be given why the general happiness is desirable, except that each person, so far as he believes it to be obtainable, desires his own happiness. This, however, being a fact, we have not only all the proof which the case admits of, but all which it is possible to require, that happiness is good; that each person's happiness is a good to that person, and the general happiness, therefore, a good to be the aggregate of all persons."³ If it is further objected that this proof fails to show that happiness is the only object actually desired by men, Mill answers that virtue, although it is not naturally and originally part of the end, has become so in those who love it disinterestedly.⁴

In accordance with his general theory Mill seeks to show that the moral feeling is not innate, but is a highly complex product of various elements, the chief of which are sympathy, fear, religious feeling of various kinds, experiences of the effects of action, self-esteem, and a

¹ *Utilitarianism*, p. 10.

² *Ibid.* p. 16.

³ *Ibid.* pp. 52-53.

⁴ *Ibid.* p. 55.

desire for public approbation. In this complex character we have an explanation of the extraordinary force and tenacity of the feeling. The association of the different elements of which it is composed is so strong as to amount to indissolubility. It is for this reason that it has been supposed to be "innate"; for that which appears to act instinctively is not unnaturally supposed to be a primitive "intuition." If any of those elements may be called at least relatively "innate," that element is sympathy. It is, however, of more importance to observe that association in the common life accustoms men to work with one another and to unite their forces in order to obtain a common end. The higher the development reached in social life and the more the barriers between different classes are broken down, the more does this solidarity increase; and when it is persistently fostered by education and the ordering of institutions, and encouraged by the force of public opinion, this feeling may give rise to what may well be called a form of religion. Mill, therefore, in contrast to Bentham, believes that there are perfectly disinterested feelings. "It is better," as Plato says, "to suffer wrong than to do wrong. The step marked by the *Gorgias* is one of the greatest in moral culture—the cultivation of a disinterested performance of duty for its own sake." "Man," he says, "is never recognised by Bentham as a being capable of pursuing spiritual perfection as an end; of desiring, for its own sake, the conformity of his own character to this standard of excellence, without hope of good or fear of evil from other source than his own inward consciousness. Even in the more limited form of conscience this great fact escapes him."¹ It is not surprising that one who thus registers his dissent from one of the cardinal features in the doctrine of his master should insist

¹ *Dissertations*, i. 359; James Seth's *English Philosophers*, 253.

upon the importance of interpreting Utility "in the highest sense, as grounded on the permanent interests of man as a progressive being."¹ In his *Utilitarianism* Mill expresses his faith in the progress of humanity in words that display a quiet and sustained hopefulness. "No one," he says, "whose opinion deserves a moment's consideration can doubt that most of the great positive evils of the world are in themselves removable, and will, if human affairs continue to improve, be in the end reduced within narrow limits. [Poverty, in any sense implying suffering, may be completely extinguished by the wisdom of society, combined with the good sense and providence of individuals. Even that most intractable of enemies, disease, may be definitely reduced in dimensions by good physical and moral education, and proper control of noxious influences, while the progress of science holds out a promise for the future of still more direct conquests over this detestable foe. And every advance in that direction relieves us from some, not only of the chances which cut short our own lives, but, what concerns us still more, which deprive us of those in whom our happiness is wrapt up. As for vicissitudes of fortune, and other disappointments connected with worldly circumstances, these are principally the effect either of gross imprudence, of ill-regulated desires, or of bad or imperfect social institutions. All the grand sources, in short, of human suffering are in a great degree, many of them almost entirely, conquerable by human care and effort; and though their removal is grievously slow—though a long succession of generations will perish in the breach before the conquest is completed, and this world becomes all that, if will and knowledge were not wanting, it might easily be made—yet every mind sufficiently intelligent and generous to bear a part, how-

¹ *Liberty*, Intro. ; Seth, p. 254.

ever small and inconspicuous, in the endeavour, will draw a noble enjoyment from the contest itself, which he would not for any bribe in the form of selfish indulgence consent to be without.”¹

Mill was by no means an advocate of the form of individualism which regards all State interference as an interference with the liberty of the subject ; on the contrary, he looks upon legislation in regard to colonisation, hours of labour, endowment of research, and similar matters, as quite consistent with an enlightened individualism. Nevertheless he is quite clear that there are certain indefinite limits within which the State should confine itself. He has no implicit faith in the wisdom of majorities, and therefore he defends an organised opposition under all forms of government, and supports the scheme of Hare for the representation of minorities. He also insists upon the supreme importance of respecting the principle that the individual must not be interfered with except in so far as such interference is necessary to prevent his behaviour from injuring others. The interference in such cases may take the form of physical force or the force of customary opinion. There must be the greatest possible freedom in the expression of opinions as well as of actions. For, he argues, the only way in which truth is reached is by free discussion of all possible alternatives. Actions, no doubt, cannot be accorded so much liberty as opinions, but he maintains that the condition of individual happiness, as well as of individual and social progress, is that a man's action should proceed from his own character, and not simply follow custom and tradition. Mill, therefore, holds by his individualism, at least so far as to maintain that society must rest upon private property, private capital, inheritance, contract, and competition. He

¹ *Utilitarianism*, p. 21.

therefore rejects all social legislation which would abolish private capital, maintaining that such a revolution could only end in disappointment and disillusion. Competition he regards as essential to progress. Those who charge upon competition the evils of existing society "forget," he says, "that wherever competition is not, monopoly is, and that monopoly in all its forms is the taxation of the industrious for the support of indolence, if not of plunder." Rejecting the socialistic remedy for the evils of society, Mill strongly advocated voluntary co-operation. The working classes, he holds, may in course of time command the necessary capital and can be trusted to encourage enterprise provided, and only provided, they have been sufficiently educated. By education he means much more than the teaching of the three R's, or a superficial acquaintance with history, science and political economy, or even the direct instruction in political and social duties. His conception is rather of the large and liberal character which Plato has set forth in his *Republic*, or at least it is the Platonic idea as adapted to the exigencies of modern life. A man is educated, in Mill's sense, not simply by his rudimentary education at school, but by that higher form of education which he experiences from the practice of his particular trade or profession. The education of the citizen cannot be decided by merely endowing him with the franchise, but only when the whole training of society fits him for the gift of self-government. It is only by the actual use of this gift that he can be made fit to receive it. No doubt a certain risk is run when the general principle of democracy is put in practice; and indeed there is no more important problem for the believer in democracy than to find out means for guarding against such risks. Thus Mill is no mere advocate of *laissez faire*, but only of an enriched and positive individualism. He

is the opponent of all distinctions of group, class or caste. It is not enough that society should be diverse and free, but each member of it must be vigorous, enlightened and disinterested. It is for this reason mainly that Mill insists so strongly upon the right of free discussion ; indeed, he carried it so far as almost to convert it into a superstition. He shows a similar extravagance of faith in social experiments. It is not true, he declares, that the health of society can be measured by "the amount of eccentricity to be found within it." Mill has so great an antipathy to social interference that he seems at times to regard the mere refusal to bend to social authority as in itself a virtue. At the same time his general idea is undoubtedly right, namely, that much which is best in human nature lies beyond the province both of social and of legal sanction.

In his *Utilitarianism* Mill gives an analysis of the sentiment of justice which will be found, when carefully analysed, to presuppose the principle that human perfection is the hidden spring of all social progress. Why is it, as Mill himself says, that as time goes on there is a gradual widening of sympathy which points beyond the individual and even beyond the nation, so as ultimately to include all men, if not that man learns by the teaching of experience and by hard-won conquests over his own narrowness and prejudices that nothing short of complete unity with a good which is not here nor there but everywhere, can bring him permanent satisfaction ? Justice, as the means of securing to every man what is necessary to his full development, is something very different from the mere impulse of retaliation, based upon the animal instinct of resentment, to which Mill would trace it back. The extension of sympathy to all men is more than a mere extension, because a recognition of the claims of every

man to fair and equitable treatment can ultimately be justified only on the principle that the true end of life consists in the union of all men in a common cause. Justice cannot be defended, as Mill would defend it, by any attempt, however specious, to reduce it to a mere calculus of pleasures. Such an attempt owes its apparent success to a confusion between the term "pleasure" and human perfection. Justice is therefore not something which is complete once for all, but something which is ever in process of realisation, though it can never be completely realised.

Mill's view is that all "restraint *qua* restraint is an evil." This idea is based upon the principle that liberty consists in "being left to oneself." This can hardly mean that a man is to be left to act in accordance with the promptings of unregulated desire or selfish inclination, for if so there would be no justification for any public action whatever. Mill really means that freedom of individual action is essential to the highest life; and if it is once clearly grasped that there is no justifiable freedom to follow unsocial desires, a so-called interference of society with the liberty of the individual must be regarded as an essential condition of true freedom. Men have not fought and died merely for the liberty to be let alone, but to escape from arbitrary, illegal, unwise restraint; and this implies the recognition of the importance of good laws to secure the external conditions of a good life. The absence of restraint is but a means to the free development of the best life, and where a higher good is to be obtained by interference with the individual it is thereby justified. Mill is so desirous of leaving the individual to follow his own ends that he seems to regard diversity and eccentricity as in themselves desirable. But, as Sir James Fitzjames Stephen says, "Originality consists in thinking for your-

self, not in thinking unlike other people." If thinking for oneself leads to thinking unlike other people it can be justified only on the ground that it is better thinking. It is not true that in a civilised State there is less interference with the individual; what is true is that the ordered life of civilisation provides the conditions under which much greater diversity of individual life is possible. The savage life is one of simple and undifferentiated action in which every one is bound down by the tyranny of custom.

It is often the case that law protects the individual against the tyranny of custom. The State protects the family, the professions and trades, and the religious life, against the unjust interference of customary opinion or the tyrannous power of corporations. Mill admits that "in England the yoke of opinion is perhaps heavier, that of law lighter, than in most other countries of Europe." By taking education out of the hands of ecclesiastical bodies the State is really making individual liberty possible. A compulsory system of education is interference with parents in favour of the children. Mill says that "the sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number is self-protection." But the individual of whom Mill is thinking is the product of an advanced civilisation. In truth we cannot, except by a vicious abstraction, separate the individual from the various relations to others which are essential to his life.

In HERBERT SPENCER we have a thinker who carries out individualism in a more consistent, if less suggestive way, than John Stuart Mill. He is largely influenced by the analogy of society to a living organism. The application of this analogy rests upon the principle of the struggle for life and the survival of the fittest. Here human society

is compared to a whole animal species, or to the totality of animal species in so far as they are in competition with one another. On the other hand, Spencer also compares society to an individual organism, the members of which correspond to cells, or rather to "physiological units." He holds, however, that there is one important distinction between a society and an organism ; for, whereas consciousness exists in the organism in connection with a central organ, in society there is no special organ of consciousness. Moreover, while in the former the parts exist for the sake of the whole, in the latter the whole exists for the sake of the parts. From this fact he infers that the central organism—in other words, the government—can never be more than a necessary means, instead of being, as in the individual, the supreme arbiter. The teaching of experience, he contends, is that all external interference with the individual results in loss of the power of practical adaptation to the realities of nature. Nor are artificially created authorities ever so vigorous and effective as the spontaneous activity of individuals.

Spencer assumes that there is such an opposition between the individual and the State that what is gained by the State is lost by the individual, and what is gained by the individual is gained at the expense of the State. This doctrine implies that State action in no sense is the action of the individual. In reality what gives force and what justifies State action is that it is an expression of the real will of the individual. Under no other condition can a free being feel any obligation to obey the laws of the State. No doubt there are cases in which the real will of the individual is not embodied in some governmental measure ; but the reason is not that the State is opposed to the will of the individual, but that it does not express his real will. Hence we find individuals opposing some action of the

government, and seeking to have a law rescinded. Such an action is justifiable if the government has done something which is in opposition to the common good. We have to remember that governmental action is always an essay in what is for the common weal, and that as no government is infallible, there may be an opposition between its acts and the real good of the community. But this in no way shows that the will of the individual is of necessity opposed to the action of the State ; all that it shows is that the real will of the individual has been misunderstood. The State is not an aggregate of individuals ; it has no existence except as it expresses the will of individuals, and that will, while it is, speaking generally, expressed through the government, may on occasion be contrary to the will of the individuals. There is no contradiction in a government at one time abolishing the Corn Laws and at another time passing Factory Acts. The same principle underlies both kinds of action. By the same principle we may rightly protest against arbitrary and unconstitutional acts at one time, and at another time pass laws which interfere with the supposed right of an ecclesiastical organisation to prescribe what men shall believe in religious matters. The whole question is whether the action is or is not in harmony with the common weal, which is the same thing as the real will of the community.

Spencer's conception of the State as an organism comparable to a living being seems to suggest a higher doctrine of the State than the opposition of the State and the individual ; for it is of the very essence of a living being to be a whole in which no part has any independent existence, and it is also characteristic of a living being, at least of the higher type, to have a central organ by which the subordinate organs are regulated and adjusted to one

another. It is therefore strange that Spencer should, after comparing the State to an organism, go on to say that individuals must be likened to "bodies dispersed through an indifferentiated jelly." The reason, I suppose, is that otherwise the analogy would lead us to suppose that the government corresponds to the brain, and then where is there a good ground in the analogy for minimising the action of the State? "As there is no social sensorium," says Spencer, "it results that the welfare of the aggregate, considered apart from that of the units, is not an end to be sought for. The society exists for the benefits of its members, not the members for the benefit of the society." This is the old fallacy that the State is opposed to the individuals composing it. When we see that the State *is* the individuals, being the expression of their true will, there is no longer any reason for denying to it what by analogy may be called a "sensorium." It is in fact a self-conscious organism. Of course there are not two things, the State and the citizens; the State is the mind and will of the citizens, and if we remove either the citizens or their mind and will we have nothing at all, and of course no "sensorium." Though the State is more than an organism, it is not less; and we lose all the suggestiveness of the comparison if we do not recognise that, just as the parts of a living being are nothing apart from the whole, so the individual members of the State have no existence except in the whole, any more than there could be a whole without them.

In support of the doctrine of Natural Rights, Spencer says that "before definite government arises, conduct is regulated by customs." Granting this very obvious fact, does it follow that rights are independent of society and belong to the individual? What it shows is only that in early society rights were recognised by the community,

though not explicitly embodied in laws. Primitive law, as Sir Henry Maine has shown, is a declaration of custom, not a command ; but a custom recognised by the community is the early form of State action. Thus the development of custom into State law is really a proof that laws are the expression of the mind, not of the individual who is seeking his own personal interest, but, on the contrary, of the general mind which rises above merely personal interests and legislates for the good of the whole. "Property," Spencer says, "was well recognised before law existed." Certainly ; but the recognition of property, though not formulated by law, was the expression of the general will, not of the selfish interests of the individuals. Property Spencer thinks of as belonging by indefeasible right to the individual, the function of the State being to protect him from interference on the part of others. But property was not among primitive peoples individual : it belonged to the family, the village, or the tribe ; and property in the modern sense was a decided interference with this corporate property. The foundation of rights is the establishment of the external conditions essential to the realisation of the best life, and thus society creates rights with their corresponding duties. This is virtually admitted by Spencer when he tells us that "the conception of natural rights originates in a recognition of the truth, that if life is justifiable, there must be a justification for the performance of acts essential to its preservation, and therefore a justification for those liberties and claims which make such acts possible."

Spencer's conception of sovereignty seems to be that of Hobbes and Austin, who place it in some definite person or persons, though he differs from them in denying that it is unlimited. But, in the first place, sovereignty does not lie in any definite person or persons but in the community

as a whole. Government is but the organ by which the general mind is expressed, and its authority is drawn from its relation to the general mind. And in the second place, the sovereignty must be unlimited, because otherwise there is no central authority to which appeal may be made in the last resort. Political obedience is not rendered to the will of any given person or persons, but is an expression of the general will as realised in and through the whole complex of customs, institutions and beliefs that together constitute the social and political organism.

CHAPTER EIGHTH

THE NATION-STATE (*continued*): NIETZSCHE, HAECKEL AND TREITSCHKE

THE importance attached by Hegel to the sovereignty of the State may be partly explained by the peculiar history of Germany. Unlike Goethe, Hegel was an ardent patriot, though before the reforms of Stein, Scharnhorst and Hardenberg he had nothing but contempt for Prussia, which, he said, had secured her own tranquillity by a degrading subservience to Napoleon. He did not despair, however, of the ultimate unity of Germany, and at a later time spoke of the "World-soul" as having "put the greatest genius into military victory, only to show how little after all mere victory counts for." At this time in a letter to Zellman he bids him look beyond the immediate failure to its causes and see in them the promise of recovery. "The French nation," he writes, "by the bath of its revolution has been freed from many institutions which the spirit of man has left behind like its baby shoes, and which therefore weighed upon it, as they still weigh upon others, as lifeless fetters. . . . Hence their preponderance over the cloudy and undeveloped spirit of the Germans, who, however, if they are once forced to cast off their inertia will rouse themselves to action, and preserving in the contact with outward things the intensity of their inner life, will perchance surpass their teachers."¹ This prophecy

¹ Hegel, xvi. p. 628.

received confirmation after the reforms of Stein and Hardenberg. Hegel rejoiced that the German nation had redeemed itself from the worst of tyrannies and regained its nationality, "that foundation of all higher life." The youthful enthusiasm kindled in him by the French Revolution has been changed into a conception of the State as an organic unity, which at the same time secures to the individual his rights. On the one hand, it must be based on a community of race and language, and it must rest upon relations that are beyond the caprice of individuals; on the other hand, it must also be a civil community in which individuals are secured in their private rights of person and property, and permitted to pursue their particular aims and to develop their special abilities in competition and co-operation with one another. Hegel believes, as we have seen, that the best form of government must have at its head a constitutional monarch; and whatever may be said of his view, there is good ground for believing that it was necessary under the actual conditions of the time. While his ideal implies a more democratic form of government than the Prussian system, he assigned to government a more direct initiative than was to be found in the English system. In the paper in which these views are expressed Hegel declares that Germany "is no longer a State, but, as a French writer has said, a constituted anarchy." Under the Holy Roman Empire the general power of the State had been destroyed. He calls for a renewal of authority under one monarch and one government. "The greatness of modern States makes it possible to realise the ancient idea of the personal participation of every freeman in the general government. Both for execution and deliberation, the power of the State must gather to a centre. But if this centre is maintained by the reverence of the people, and consecrated in its unchange-

ableness in the person of a monarch, determined by the natural law of birth, the Government may, without fear or jealousy, leave the subordinate systems and corporations to determine in their own way most of the relations which arise in society, and every rank, city, commune, etc., to enjoy the freedom of doing that which lies within its own sphere." Thus his idea is that of an organism in which life is continually streaming from the centre to the extremities, and back from the extremities to the centre. This is in essence the doctrine expounded in his *Philosophie des Rechts*. Hegel, though he has been accused of being the mouthpiece of the reaction, shows in this work that he provided for many of those popular institutions which a reactionary government refused to grant.

Hegel has been accused of being the exponent of Prussian military tradition, and the present ruthless conduct of the war has been traced back to his doctrine of the State. The strong words in which he denounces the gospel of force, as advocated by von Haller, sufficiently prove that the charge is not based on fact. Hegel, indeed, believes in the absoluteness of the State in the sense that it is the ultimate authority in relation to its own citizens as well as in negotiations with foreign powers, but he just as decidedly declares that *will*, not *force*, is that which binds together the distinct elements. Nor does he hold that a State exists for the purpose of conquest. War, according to Clausewitz, "is the continuation of politics." This is entirely contrary to the philosophy of Hegel, for whom the continuation of politics is art, science, religion, for which the State provides the essential external conditions. It is true that he has very little to say about international relations; but the reasons are surely patent without our having recourse to the view that the State is beyond all law of right and may do whatever is in its own selfish

interest. What was of first importance in Hegel's day was the creation of a national feeling, as Fichte also saw, and Hegel was attempting to analyse an actual State, as he tells us, not to construct an ideal State. In any case he would certainly not have admitted the atrocious doctrine that a State is above all morality and may do whatever it pleases irrespective of the claims of other States. Above and beyond the State there is the spirit of the world, which is also the divine spirit. The State is for him the custodian of the moral world, and within and beyond it is the Kingdom of God. As he said in his first public utterance as University Professor in Heidelberg: "Now that the German nation has redeemed itself by the sword from the worst of tyrannies, and regained its national unity—the foundation of a higher life—we may hope that besides the Kingdom of this world, on which all thoughts and efforts have been hitherto concentrated, the Kingdom of God may also be thought of; in other words, that, besides political and worldly interests, science and philosophy, the free interests of intelligence, may also rise to newness of life." It is strange that some who trace all our present evils back to Hegel do not see that one who held the inviolability of the State could not be at the same time an advocate of world-dominion, and that it is not possible that the exponent of the free will, which is also the moral will, should be the *fons et origo* of the immoral doctrine that the State has no limits but its own selfish interests. The philosophy which has buttressed up this irrational doctrine is really due to a reaction against the idealist philosophy, and it may be proper to say a few words in regard to the historical causes which have led to the present German deification of Force as the essence of the modern State.

The political unity of Germany was secured compara-

tively late, partly because of the strong individuality, not to say the selfishness, of the two hundred States into which it was divided. At the end of the eighteenth century the economic condition of the country was of the poorest. Systems of common cultivation and of partial villeinage prevailed, and industrial development could hardly be expected from a people split up into so many separate states and almost hermetically sealed against one another, not only by tariff barriers but by differences in measures and money, in customs and laws. From 1850 to 1860, however, the foundations of Germany as an industrial State were laid, although its rate of economic progress was retarded by the rivalry of other countries, especially in iron, steel and other mineral industries. A new order of things was initiated by Stein and Hardenberg and several other statesmen, and it is significant that none of these reformers were Prussians. Stein was aided in awakening Germany to self-consciousness by Fichte's *Addresses to the German People*; but the mass of the people were kept out of even moderate rights for many years by the pedantic Frederick William the Third and his pedantic advisers; so that in Germany, almost alone of the great European powers, the democratic and national movements towards unity and liberty were stifled in their birth. It was under the strong hand of Bismarck that Germany entered upon a new career, the final result of which was its unification and the contemporary organisation of the Prussian army by Roon, while the military strategy of von Moltke resulted in the triumph of Prussia, first over Austria and later over France. The effect of these wars on the German people was to stimulate their consciousness of unity, and, under Bismarck's guidance, to develop the rich mineral resources of the country. One untoward result of this increased self-consciousness and this material expansion was the

rise of a materialistic philosophy in writers like Moleschott and Büchner. "No one," said Ranke sadly, "thinks of anything but commerce and money." In confirmation of this materialistic tendency Darwin's doctrine of the struggle for existence was interpreted, or rather misinterpreted, as a proof that the law of life and history is that the strongest must win in the long run. "The theory of selection teaches," says HAECKEL, "that in human life, as in animal life, everywhere and at all times, only a small and chosen minority can exist and flourish, while the enormous majority starve and miserably perish more or less prematurely. . . . The cruel and merciless struggle for existence which rages throughout all living nature, and in the course of nature must rage, this unceasing and inexorable competition of all living creatures is an incontestable fact ; only a picked minority of the fittest is in a position to resist it successfully, while the great majority of the competitors must necessarily perish miserably. We may profoundly lament this tragical state of things, but we can neither controvert nor alter it. 'Many are called but few are chosen.' This principle of selection is nothing less than democratic, on the contrary, it is aristocratic in the strictest sense of the word." Again, applying the principle in the interpretation of human life, Haeckel says : "The supreme mistake of Christian ethics, and one which runs directly counter to the Golden Rule, is its exaggeration of love of one's neighbour at the expense of self-love. Christianity attacks and despises egoism on principle. Yet that natural impulse is absolutely indispensable in view of self-preservation ; indeed, one may say that even altruism, its apparent opposite, is only an enlightened egoism. Nothing great or elevated has ever taken place without egoism, and without the passion that urges us to great sacrifices. It is only the

excesses of the impulse that are injurious. One of the Christian precepts that were impressed upon us in early youth as of great importance, and that are glorified in millions of sermons is: 'Love your enemies, bless them that curse you, do good to them that hate you, and pray for them that spitefully use you and persecute you' It is a very ideal precept, but as useless in practice as it is unnatural. So it is with the counsel: 'If any man will take away thy coat, let him have thy cloak also.' Translated into terms of modern life, that means: 'When some unscrupulous scoundrel has defrauded thee of half thy goods, let him have the other half also.' Or again, in the modern politics: 'When the pious English take from you simple Germans one after another of your new and valuable colonies in Africa, let them have all the rest of your colonies also—or best of all give them Germany itself.' "

The aggressive and ambitious spirit which since 1870 has characterised the German people has been intensified by the writings of NIETZSCHE. In his later years, it is true, he spoke of nationalism with contempt, advocating a united Europe, and calling for men of rigid austerity and self-discipline; but his worship of power has been eagerly caught up by the new Germany which came to self-consciousness after 1870. Its mission, it is believed, is to "carry heroism into knowledge and to wage war for the sake of ideas." It is therefore only natural that General von BERNHARDI should endorse the saying that "without war inferior or demoralised races would only too easily swamp the healthy and vital ones, and a general decadence would be the result. War is one of the essential factors in morality."

These are the ideas that TREITSCHKE instilled into the mind of young Germany year after year until they have now become all but universal there. Of his ardent patriot-

ism there is no manner of doubt, but it can hardly be called the patriotism of a well-balanced mind. He adopts the doctrine of Bismarck that "even one's good name must be sacrificed to the Fatherland." In his *Lectures on Politics* his contrast to Hegel was shown with startling clearness. The State according to Hegel is based upon Will, "its binding cord being not force but the deep-seated feeling of order which is possessed by all." In criticising von Haller, the Treitschke of his day, he says: "It is not the power of the right that Haller means, but the power of the vulture which tears in pieces the innocent lamb."¹ This opposition of Will and Force is obliterated in the writings of Treitschke, and it is from a confusion between them that his theory gets its plausibility.

The burden of Treitschke's *Politik* is that the State is Power: it is, we are told, infinitely superior to the individual, its object being to realise an ideal beyond and above that of personal happiness. No doubt man is more than a merely political being, for he has the right to think freely about all matters pertaining to the sphere of religion; but in matters pertaining to secular things he is absolutely under the control of the State. Even the Church must obey the laws which the State sees fit to make, including a certain measure of religious unity, since "without community of religion the consciousness of national unity is impossible." It is a great mistake to suppose that the principle of humanity can be made the basis of political action. There is no natural equality among men, and indeed the essential inequality of men is the foundation of all political reasoning. The State is a Person, not an Organism. As a Person it attains to realisation by friendly intercourse and by conflict with other States. The conception of a World-State is a thoroughly false ideal. "In the eternal conflict of separate states lies the beauty of

¹ *Philosophie des Rechts*, p. 245.

history." Hence "the State is the public power for defensive and offensive purposes, and a state which is not able to form and maintain itself deserves to perish." The maintenance of military power is therefore an absolutely essential duty, and the State that cannot protect its subjects will not generate in them a true patriotism and national pride. War, when it is waged for some national interest, is essentially wholesome and elevating ; it is, as Clausewitz says, the necessary instrument of the State—in Treitschke's phraseology "Political science par excellence." "It is only in war that a people becomes in very deed a people. By it new states are erected and disputes settled between independent states ; it is a sovereign specific against national disunion, and a school of the manly virtues. The protection of its citizens by force of arms is the foremost duty of a nation. Therefore wars must continue to the end of history. Even among civilised nations it is the only form of law-suit by which the separate and irreconcilable claims of each may be determined. Is it not a perverted form of morality which would eradicate the heroic spirit from the human race? Even if wars were to become infrequent, it would still be wise to maintain a citizen army as a school of character. Apart from this the maintenance of a military class is dictated by the instinct of self-preservation. The State is power, and it is reasonable and normal that a great nation should by its physical force embody and perfect this power in a well-organised army. Of all political institutions a really national and well-organised army is the only one which brings citizens together as citizens." It is Treitschke's belief that there is no danger that a nation in which every able-bodied citizen is a soldier will ever disturb the peace of another nation by wanton conquest.

Treitschke makes it clear that when he declares the

State to be Power, the State he is thinking of is Prussia. Power is a means to culture, and culture he practically assumes to be a monopoly of Germany. The German nation must be sovereign, which means that it has virtually no international obligations. "The State," he says, "is the highest thing in the eternal society of man ; above it there is nothing at all in the history of the world. . . . To care for its power is the highest moral duty of the State. Of all political weaknesses that of feebleness is the most abominable and despicable ; it is the sin against the Holy Spirit of politics." This doctrine is naturally a menace to International Law and a constant threat of aggressive war. Treitschke will have nothing to do with the "Liberal" theory, which "regards the State as a fine fellow, who is to be washed and combed and sent to school, and to be thankful and just, and God knows what beside." His own theory is that International Law must be between Great States of about equal size, because "history shows the continuous growth of great States out of decadent small States." Small States are apt to be soft and sentimental, and are in continual fear of aggression. "Few people realise how ridiculous it is of Belgium to feel itself the home of International Law. A State in an abnormal position must have an abnormal view of International Law. Belgium is neutral ; it is emasculated ; it cannot produce a healthy International Law" England on the other hand is a nation which violates all the principles of International Law in her maritime transactions, and in order to produce an equilibrium, the other great powers must have a navy of equal strength. When the sovereignty of the State is threatened, "it is ridiculous to advise a State which is in competition with other States to start by taking the catechism in its hands." A State may therefore disown a Treaty if there is necessity for it. "A

State cannot bind its will for the future over against another State." When circumstances change, the Treaty *ipso facto* also changes, and a State itself is the only judge on this point. Evidently on this theory International Law and Treaties are "scraps of paper." As Treitschke puts it, "if a State is not in a position to maintain its neutrality, it is empty words to talk of neutrality." Alas, poor Belgium! A small State, as one German writer argues, must be dependent on the culture of the great State, and will gain in real vitality by incorporation in its more powerful neighbour. In short, as Treitschke expressly says, "Might is at once the supreme Right, and the dispute as to what is right is decided by the arbitrament of war." It is not surprising therefore that he should in his pamphlet, *Was fordern wir von Frankreich?* insist upon the annexation of Alsace-Lorraine. These conquered provinces must, in Kant's words, be "forced to be free." "We Germans know better what is good for Alsace and Lorraine than the unhappy people themselves, who through their French associations have lived in ignorance of the new Germany. We will give them back their own identity against their will. We have in the enormous changes of these times too often seen in glad astonishment the immortal working of the forces of history to be able to believe in the unconditional value of a Referendum in this matter. We invoke the men of the past against the present." Treitschke admits that there is something not altogether lovely about the "civilising" methods of Prussia, but, he argues, Prussia, united to the rest of Germany under the new Empire, will become humanised and will in turn humanise the new subject peoples. Unfortunately the forty years that have elapsed since he uttered this prophecy have shown that instead of a Germanised Prussia what has come to be is a Prussianised Germany.

There is no absolute law, according to Treitschke, to which a State is subject, for laws are made by a sovereign power which is able to enforce them. There is therefore no such thing as International Law. States may make Treaties, but these last only so long as the contracting parties see fit to observe them. The only law which applies to States is the law of their own interest. Treaties which have outlived their usefulness may be discarded and new Treaties corresponding to the new conditions take their place. The establishment of an International Court of Arbitration is incompatible with the nature of the State, which at the most can only submit to such a Court in questions of secondary importance. International Treaties may become more frequent, but to the end of time the right of arms will endure.

As a great institution for the education of the human race the State must come under the moral law. A sincere and honest policy builds up a national reputation which is a power in itself. For Bismarck candour was a most effective weapon, for when he spoke out his intention frankly the inferior diplomat always imagined that he intended just the opposite. The State must be moral, but its highest moral duty is to maintain its power. The individual may properly sacrifice himself for the sake of the community of which he is a member, but it is not the duty of the State to sacrifice itself. That one State should sacrifice itself in the interest of another would not only be immoral but contrary to that principle of self-preservation which is its highest duty. We must distinguish between public and private morals. Of all political sins that of weakness is the most despicable. Generosity and gratitude can only be virtues in politics if they do not militate against the great object of politics, which is the preservation of the power of the State. A State which

finds itself in contact with a barbarous or unscrupulous people may justifiably come down to its level. Brutality may be met with brutality, fraud with fraud.

Colonies are valuable because they enable the mother-state to save her surplus population from being dissipated among other nations. The need of such a State as Germany for colonies is "a necessity which knows no law." This indeed is not Treitschke's own express statement, but it is one held by his disciples to be fairly deducible from his doctrine.

International Law is a set of rules framed by the enlightened self-interest of nations. Treitschke denies that minor or neutral States can claim any share in drafting these rules. As a result of reasoned calculation as well as from a mutual sense of their own advantage States will exhibit an increasing respect for justice, but as there is no higher power placed above them, the existence of International Law is always precarious. The idea of a balance of power contains a germ of truth. An organised political system presupposes that no one State shall be so powerful as to be able to do just as it pleases without danger to itself. It is the fault of England alone that the provisions of International Law which relate to maritime warfare still sanction the practice of privileged piracy. It is certain that war will never be expelled from the world by International Courts of Arbitration. How could Germany, for example, allow the question of Alsace-Lorraine to be decided by a Court of Arbitration?

Since the State is Power, that State which unites all power in a single hand and asserts its own independence corresponds most nearly to the ideal. A Democracy is inferior to a Monarchy and an Aristocracy, being based on the false principle that men are by nature equal. The notion of ruling implies the existence of a class that is

ruled ; but if all are to rule, where is this class to be found ? Liberty rests upon reasonable laws, which the individual can obey with the approbation of his conscience. It is a false conception of liberty to ask for it not in the State but from the State. Political liberty depends much less upon the right to vote than upon a serious and conscientious participation in administrative work. A hereditary Monarchy is therefore the ideal form of constitution. As a ruler by hereditary right the Monarch ought to be irresponsible for the exercise of his powers. In a Monarch the will of the State is an expression of the will of one man who by virtue of the historic right of a certain family wears the crown, and with whom the ultimate decision must rest. The Monarch is morally supported by the aristocracy, because he represents the hereditary principle and at the same time he normally becomes the protector of the people. The existence of a monarch is also justified because it puts the highest position of authority out of the reach of adventurers, and because no one is jealous of the Monarch's supremacy. No doubt the success of a Monarchy implies that there is public confidence in the dynasty and in the monarchical form of government. A Democracy founded on the dogma of equality veers and shifts with the whims of the majority. It can only survive when it can dispense with a large standing army, with an efficient civil service, and with a centralised government.

When Treitschke tells us that the State is "infinitely superior to the individual," he makes a statement which is ambiguous and misleading. For him it practically means that the individual is bound to submit to the laws of the State under all circumstances. This is connected with his view that the best form of government is government from above, and that the mere possession of the fran-

chise is of quite secondary importance. Hence the importance he attaches to an aristocratic form of government. The opposition of the State and the individual is essentially false. There are not two ends : one the good of the State, and the other the good of the individual. The State exists for the purpose of securing the best life of the individual and derives its authority from the free consent of the citizens. In no other way can the law of the State be justified. It is true that the individual does not always realise wherein his good consists, but neither does the government. All the institutions of society are organisations by means of which the best life of the individual is discovered and embodied in the law of the State. Thus the State is gradually brought into harmony with the good of the citizens. The individual cannot reasonably be asked to submit to any laws except those which are the embodiment of the common good of all individuals. Moreover, the laws of the State are not a complete expression of the life of individuals. Confined as it is to the external regulation of the conditions of the best life, the State cannot directly in justice interfere with art or religion, with science or philosophy, as developed by the free play of social forces, but can only secure that the individual shall have freedom to live his own life without undue interference. Thus within the State there are organisations for the development of the higher life, and beyond the State there are also associations for the promotion of the same objects.

The State, Treitschke tells us further, exists in order to realise "an ideal beyond and above that of individual happiness." No doubt ; but this ideal is the ideal of the individual who really realises wherein his highest good consists. Morality does not consist in the pursuit of happiness, if this means in securing the greatest possible

sum of pleasure. We cannot legitimately oppose the good of the individual to the good of the whole ; the two coincide. What gives point to Treitschke's remark is that the individual may seek his good in the pursuit of selfish ends : ends which are incompatible with the good of the whole. And this is true ; but what it shows is that the individual contradicts his own true nature. His own good and the good of the whole coincide. Man's real will, as Plato said, is the common good ; which does not mean that every individual must live the same life as every other, but that whatever life he lives, it must in some way promote the good of the whole.

We are told that the foundation of all political reasoning is the perception of the essential inequality of men. Hence the conception of the State is prior to that of Humanity. What gives apparent force to this view is that each nation has a special task, which it is called upon to perform. But this truth is perverted when it is held that the task of a particular State may be so important that it overmasters that of any other State, and that it may therefore justly compel others to accept its guidance, if that can only be secured by force. The importance of the mission of any State cannot justify it in attempting to enforce its particular form of civilisation upon other civilised states : firstly, because no State can exhaust the possibilities of human nature ; and secondly, because civilisation cannot be imposed by force. Each nation has its distinctive type of culture, and the distinction is essential to the complete life of mankind. As Mr. Davis well says : " When we say that every nation has its own type of moral excellence we do not mean that it has virtues which no other nation possesses, or that it approves of conduct which every nation reprobates. We only mean that some of the common virtues of humanity are more

highly prized in one nation than in another ; that certain types of human activities are more useful in this place than in that. The scientific mind is more highly prized in Germany than it is in England ; this does not mean that the Englishman regards the scientist as useless or pernicious. The French value courtesy more highly than we do ; but still we regard courtesy as a good quality.”¹

But even granting that one nation possesses all the highest qualities—a preposterous supposition—it would still be true that it has no right to impose its culture on other nations by force. What cannot be done should not be done. Civilisation is necessarily a slow and gradual process, because it implies the response of those upon whom it is attempted to be imposed. Unless they respond, all that is secured is an external conformity, which is very different from a real assimilation of the new spirit, and is sure to be accompanied by hypocrisy and other evils. Treitschke never seems to understand that the good of the State involves the free consent and endorsement of the laws, and that unless this is secured the true good of the State cannot be attained. Provided you have subservient citizens, he seems to think, all is secured that is desirable. But all is not secured. It is by the free exercise of rational will, experimenting in various forms of social organisation, that the good of the State is secured. Eliminate the whole process of experimentation thus involved, and the State is itself bound to suffer.

Punishment, according to Treitschke, is simply ordained in order to preserve the external form of society. This is a thoroughly inadequate theory. External order is not an end in itself ; it is valuable only as an indication of a moral order, and moral order is impossible without the moralisation of the individual. By punishment the

¹ *The Political Thought of Treitschke*, p. 125.

individual comes to be aware of the higher mind of the community, which he has violated, otherwise it would simply be the desire of the stronger to prevent the opposition of the weaker. The State exists for the promotion of the best life, and this end can only be secured by the enforcement of penalties upon individuals who violate the sanctities of the best life. The justification of punishment is that it shows to all the citizens wherein the conditions of the good life can be attained, and it brings home to the criminal the respect in which he has violated those conditions. It promotes the external order of the State certainly, but that order is justifiable only because it is essential to the best life.

War Treitschke regards as a sovereign specific against national disunion. This is a specious argument. It is true that a people comes in time of war to realise its solidarity, but that is not a reason for engaging in war. The true cure for disunion is in the removal of its cause. If a State is internally wholesome there is no need for war to awaken the consciousness of its solidarity. In times of peace the citizen is not aware of his consciousness of the common good, but war does not create this consciousness; it only makes explicit a consciousness which is already there. Moreover, so far as war necessarily distracts attention from the internal defects of the State, it is a malign influence. The internal disease is only concealed, and is bound to break forth again in times of peace. Nothing will cure internal disease but internal reformation. To argue that only war convinces a people that they are really one is a palpable fallacy. Every act of obedience to established law is a confession of unity. It is true that war develops certain forms of virtue, but it is absurd to say that it is the only school of the manlier virtues. Manliness is not limited to courage in war, but is more highly

developed in battling against the evils of society. In overcoming the forces of external nature, in abolishing the ravages of disease, in the development of art, science and philosophy, the manly virtues are more worthily cultivated than in the practice of war, with all its attendant evils. To argue that a citizen army must be maintained in order to cultivate character only means that Treitschke does not properly appreciate the discipline of peaceful pursuits, and shuts his eyes to the evil sentiments inevitably generated by war, as well as to the enormous economic losses which it brings in its train.

Treitschke rightly enough says that Treaties are subject to revision with a change of circumstances ; but he does not tell us whether a State may, without giving due notice, violate a Treaty for what it considers military necessity. His whole argument, however, implies that a State must determine for itself where and when and how it will break the terms of a Treaty. He tells us that the supreme duty of a State is to maintain its power, and he would therefore accept the doctrine of Machiavelli that a State may violate all the ordinary rules of private morality when its existence is at stake. When its existence is at stake must be determined by itself. Obviously this view can only lead to the unlimited right of a State to do whatever it regards as necessary to preserve its existence. Generosity and gratitude on this view are political virtues only if they do not militate against the power of the State ; which practically means that they have no place whatever in statecraft.

CHAPTER NINTH

ANALYSIS OF THE MODERN STATE

OUR survey of the development of political theory, which is now completed, has made it abundantly evident that the community, beginning in a simple and undifferentiated form of life, has, by various and sometimes devious routes, advanced to a condition in which life is at once much more diversified and much better organised. In primitive society the individual man was kept within very narrow and rigid limits, and the community as a whole was therefore of a type which hardly admitted of any complexity in its organisation. The individual members were allowed little free play for any special idiosyncrasies of character or talent. The good of the whole demanded the sacrifice of independence in the parts. Confined within narrow territorial limits, the individual was expected, and was prepared, to sacrifice his own personal inclinations for the good of his clan or tribe ; and devotion to his own small community was accompanied by antagonism to all others. This gives to ancient society a false appearance of solidarity as compared with the more developed forms of modern life. The relative simplicity of the primitive community, as compared with the modern State, suggests the general principle that the development of society has been from simplicity to complexity of life and organisation.

The Athenian State was almost as perfect as such a form of society could be. It had, however, two fundamental

defects, which were bound to effect its destruction in the fulness of time. In the first place, the great results which it was able to accomplish in a marvellously short time were made possible because it was a slave-owning State ; indeed it would be more accurate to call Athens a slave-owning aristocracy than a democracy in the modern sense of the word. It is true that in no other city of Greece were the slaves so comfortable or lived so varied a life, and in none were they so exclusively drawn from foreign and half-civilised peoples ; but the fundamental crime against humanity undermined the life of the citizens and ultimately proved its undoing. And there was a second defect in the Athenian constitution, connected with the manner in which its surplus wealth was obtained. Partly, no doubt, it was drawn from the ordinary revenue, but the greater part was obtained from taxes levied upon subject cities. This, indeed, was in contradiction of the Athenian idea that a State should be self-sufficient, since it sacrificed the self-sufficiency of other communities for the benefit of one. Athens, in fact, could not herself provide for her daily wants, much less without external assistance could she develop the noble life for which she was praised by Pericles. Thus the self-sufficiency of the City-State had proved to be an unrealisable ideal.

The same tendency to pass beyond the limits of the City-State was displayed by Rome. During the period of the oligarchy a system of law was required to regulate transactions between Romans and foreigners and between foreigners themselves, and the Twelve Tables were too peculiar to supply a proper basis for decisions. Disputes between Romans and foreigners were decided by the praetors according to the practices and customs of those concerned. Thus arose the *jus gentium*, as distinguished from the *jus civile* or native law of Rome. The result was

the formation of a body of law of wider application than the native law. In truth, Rome by its development had ceased to be a true City-State, and the establishment of an Empire became a necessity. The result of its expansion was thus to carry it beyond its original narrow confines, and indirectly to make a cleft between the central organisation and the various communities under its sway. While all the political power was in the hands of the Emperor, a certain amount of self-government was allowed to the communes ; and this fact is by no means insignificant, since it introduced a distinction between society and the State, which was destined to result in greater concreteness in the life of the community. The City-State combined in itself almost all the needs of civilised life : religion, politics, music, painting and part of education ; and therefore its maintenance was a necessity of any civilised life whatever. The subsequent history of mankind led to the differentiation of the political organ from the artistic, educational, industrial and religious. The Stoical philosophy, with its conception of the fundamental identity in nature of all men, and the corollary of Stoical lawyers that there is a " natural law " which is applicable to all men, gave rise to a system of jurisprudence of wide and universal scope, which has had enormous influence upon modern peoples.

Before proceeding to a consideration of the true form of the modern State it will be well to refer shortly to the successive steps by which political theory has advanced. Aristotle, who firmly grasped the whole essence of the ancient City-State, points out that it exists for the development of the best life through the co-operation of the various classes of society all working towards a common end. This conception of society as the necessary condition of the realisation of what man in his essential nature truly

is, stands in marked contrast to the individualistic doctrine of the Sophists, for whom the State was but a device by which men are enabled to secure advantages for themselves that they could not otherwise obtain. Thus, at the very dawn of political speculation we find individualism affirmed in contrast to an organic conception of society, and the same contrast meets us at the beginning of modern political speculation with Hobbes. The limit of self-sufficiency, which seemed to Aristotle a fundamental condition of a powerful and successful community, is conceived by him as well as by Plato to be the City-State, a community pursuing its own independent life and so ministering to the highest good of its own citizens, including those literary, scientific, artistic and philosophical products which Athens in its best days was able to produce. The weakness of this form of society arose from its fundamental assumption that not the good of mankind as a whole, but only the good of the Greek citizen, was the end and purpose of political organisation, and therefore that slavery and the subjection of the working class was a justifiable method of securing the best life, while other communities were as a matter of fact used simply as a means for the attainment of this end. It was therefore a marked advance upon this conception when the Stoics and Epicureans insisted upon the spiritual value of man as man, the one advocating a cosmopolitan view of humanity, and the other making a plea for the higher value of friendship as compared with the colder bond of citizenship. The strength of these schools thus lay in the new conception of self-conscious personality as the essence of humanity, their weakness in not providing in their systems for those virtues, rights and duties which can only be secured in a properly organised community. Men were taught to cultivate indifference to their own fate, and this

carried with it the corollary that they should be equally indifferent to the fate of others ; with the result that no effort was made to realise in practice their dream of a good as wide as humanity. Nevertheless, the conception of something higher than the narrow life of the City-State was never entirely lost, even when it was temporarily obscured, and this conception began to be practically realised when Christianity made its advent in the world, proclaiming that all men are children of one divine Father. The subsequent history of mankind may be said to consist in the endeavour to realise this ideal, not merely in the lives of individuals, but in a form of society modelled after the " pattern in the mount."

The influence of the Stoical philosophy is seen in the importance attached by Cicero to the conception of a " law of nature " as supplying the standard by which the institutions and laws of society may be estimated, a conception which served as an ideal for the reconstruction of society fifteen centuries later. With the vast extension of the Roman Empire all ideas of independent national life were lost, but in its place there came a great development of municipal law and administration, preparing the way for a more concrete conception of the State than was possible to the more limited vision of Plato and Aristotle. Ulpian and the Roman jurists caught up the idea of a " law of nature," pointing out its incompatibility with the institution of slavery ; and the Christian Fathers, though they were not prepared to advocate the abolition of slavery, at least helped to ameliorate the condition of the slave. With the conversion of Constantine the Church became closely allied to the State, and in the subsequent period, when the Roman Empire began to crumble under the fierce attacks of the Barbarians, the Church was all the more powerful that the power of its rival, the Empire,

had become weak and ineffectual. The Empire, however was not dead, but lived on for a thousand years after the extinction of the Western Empire. The alliance of Church and State was renewed under Charlemagne, and the traditional tribal law of the Franks was amalgamated with Roman law. The Feudal Monarchy, based as it was upon the idea of a contract between the king and his vassals, prepared the way for the reintroduction of the doctrine that the State owes its origin to a pact between the people and the sovereign. Imperfect as this conception is theoretically, it proved to be a valuable device for the defence of liberty and nationality.

The great question of the thirteenth and fourteenth centuries was whether the Church or the Empire, both admittedly of divine appointment and having jurisdiction over all Christendom, was to be regarded as supreme over the other. Frederick II., the champion of the claims of the Empire to supremacy, seems to have not only claimed supremacy for the Empire, but an authority which extended to spiritual as well as temporal concerns. His untimely death left the question unsettled, and a number of writers carried on the controversy, the most important being Thomas Aquinas, as representing the papal claims, and Dante, who pleads for the separate and independent jurisdiction of Emperor and Pope, the one supreme in all temporal matters, the other in things spiritual. Rising above this dispute between the Church and the Emperor, Marsiglio of Padua prefigures the modern theory that the creator of law is the whole people, who have the power not only to elect but to depose the governing power; and a similar conception he applies to the Church, affirming that the supreme authority in spiritual matters is not the priesthood but the whole body of believers.

From the middle of the fourteenth century to the end

of the fifteenth there was a gradual decay of the imperial idea and a decline in the power of the feudal monarchy, with a simultaneous growth of nationalism and a strong opposition to the overweening claims of the Church. This is the explanation of the movements associated with the names of Wycliffe and Huss. It is, however, with Machiavelli that the modern study of politics really begins. It is true that he deals not so much with the fundamental principles of politics, as with the special problem how a statesman who is convinced that his country is in danger of destruction should act ; but his dispassionate method raised the problem of government above the conflict of Church and State, and his principles made for the independence and unity of the nation, even if that could only be achieved by means of a military despotism. If Machiavelli represents the point of view of the Renaissance, Luther as the main spokesman of the Reformation endorses that complete denial of all civil authority to the Church which was characteristic of the Reformation, and it is for this reason that he exalts the authority of the prince to a pitch which prepares the way for subsequent attempts to defend the "divine right of kings." Luther's doctrine is that the prince is responsible to God alone, not to the people ; a doctrine which, in spite of his real interest in the liberty of the individual, could not but give countenance to an absolutism in which all civil liberty was destroyed. Bodin, on the other hand, while seeking to preserve the sovereignty of the prince, endeavours to shield the citizen from the arbitrary encroachment upon his personal liberty by his affirmation that, while the sovereign is supreme over citizens and is not bound by the laws, yet this does not mean that he may cast aside all duty and moral responsibility.

Grotius makes the first attempt to formulate the prin-

ciples of International Law, required to replace the decayed jurisdiction of the Church. Thus the whole medieval point of view, with its opposition of Church and State, clergy and laity, secular and sacred, has at length given way to a doctrine of national and international relations; and henceforth political theory is concerned solely with the foundation of the State, the source of sovereignty and rights, and the relations between the several independent states.

Hobbes, making use of the old Sophistic idea that society is based upon contract derives the sovereign's authority from the consent of the subjects, whose agent he is; yet he maintains that the subjects cannot change the form of government, nor can the sovereign, who has made no covenant, forfeit his power. Any attempt to subvert the power of the ruler, Hobbes argues, is equivalent to a return to the state of nature, in which pure force ruled. But what if there should be a successful rebellion? Since the right of the sovereign rests upon mere power, and power disappears if the opposition to it is successful, it would seem to follow that only an abortive revolution can be condemned. This contradiction is quite explicit in Spinoza, because he expressly says that natural right is the same thing as natural power, a power which can never be abandoned. Hence he cannot explain how, without rising above nature, any right whatever can be established. The basis of rights consists in the idea of an end higher than the merely natural, and this again implies the idea of final cause, which Spinoza expressly rejects. Locke, on the other hand, holds that in the state of nature men have a consciousness of the law of nature, though they do not always obey it. The function of the legislature, as he conceives it, is to formulate this law, to administer it by known authorised judges, and to enforce the decisions arrived at. This, he thinks, will prevent each man from

giving his private interpretation of what the law of nature demands. And as "the legislative being is only a fiduciary power to act for certain ends there remains still in the people a supreme power to remove or alter the legislature." In this way Locke would defend the revolution of 1688. The theory of a social contract gets its best expression, however, from Rousseau, who holds that every individual gives up his rights, not, as Hobbes held, to a sovereign person or persons, but to society as a whole. Thus sovereignty really resides in all the members of society, who are subjects only as owing obedience to the laws of the State. Rousseau, however, obscures the issue by identifying the will of all with the general will—a confusion based upon the false assumption that the general will can be found only by a plebiscite of the citizens. The subsequent development of political theory, therefore, consisted in removing this ambiguity and maintaining that the source of all law and right lies in the common will, however ascertained. This was the substance of Kant's theory of rights, which, however, was still partly infected by the false notion that rights rest upon the individual will as such. Kant is therefore forced to find the basis of the State in the aggregate of wills combining to "force the individual to be free," that is, to act in accordance with universal laws, not from personal desires. Hegel removes the last vestige of the false theory that the State is based upon contract, making its foundation to rest upon the true principle of the common will, as distinguished from the mere sum of individual wills. The State must indeed be powerful, but only because it is its function to maintain the external conditions essential to the best life. Thus Hegel really restores the fruitful conception of Aristotle, that the function of organised society is to secure the highest good of the citizen.

In contrast to this organic conception of the State stands the individualistic theory of Bentham and his followers. The whole fiction of a social contract is contemptuously rejected by Bentham, just as it is set aside by Hegel, but what is lacking in the former is just the element which in the latter replaces this age-long fiction, namely, a recognition of the common will as the source of rights and the true foundation of sovereignty. In John Stuart Mill the doctrine is modified by elements which really imply that the basis of rights lies in the principle of the common will and the common good. In Spencer the pure individualism, which in Mill had been replaced by a less consistent but more suggestive theory, is advocated in all its nakedness. He will have no interference with what he assumes to be the absolute rights of the individual, and his doctrine, if logically developed, would lead to the conclusion that the State has no function whatever. At the most it can only be regarded as a kind of joint-stock company, in which the disputes of individuals must be settled by mutual compromise.

In Treitschke, Bernhardt and other German writers we have the theory of the absoluteness of the State revived in its crudest form. The State exists simply for the good of its own citizens, as distinguished from the citizens of other States. Its foundation is might, not right—"the good old law, the simple plan, that he should take who has the power, and he should keep who can." Hence the glorification of war as the nursery of the manly virtues, and the contempt for weak States which cannot defend themselves. This is a palpable distortion of the doctrine of Hegel, that the State rests upon Will, not upon Force.

The very complexity of modern society makes it hard to find a formula which expresses its nature with accuracy

and completeness. In Cicero, as we have seen, much importance is attached to the idea of a law of nature, an idea which he derived from Stoical writers. As interpreted by him it has the meaning of an ideal of social action which may be employed as a standard by which actual rules of life are to be judged. The law of nature is, he holds, higher than any positive laws of society. But when we ask what is its content, it is difficult to get a precise answer. The nearest approach to such an answer is to say that it is the embodiment of a law which is applicable to man as man, not to the member of a particular class or nation. But if we abstract from all that is characteristic of a class or nation, we seem to be left with an indefinite residuum, which gives us no practical guidance. The institution of slavery is incompatible with the law of nature, while it is in harmony with the law of nations. But this does not lead to its abolition, since it is not clear that the law of nature will positively determine what is to be done with the slave. Thus the Stoic could maintain the identity of all men as men and yet reconcile himself to slavery. Obviously the defect of such a conception as the law of nature is its utter abstractness, which does not enable us to deduce from it any positive rules. It points beyond the inequalities of society, but it is useless as a guide to the actual constitution of society and the State. The community is something concrete, which cannot be determined by the merely abstract conception of humanity. The idea of humanity must ever remain as an ideal, but to give it form and body we must seek to realise the ideal in determinate ways, and this implies a definite organisation of society, with national differences and differences of vocation among its members.

The conception of the State as a social contract, but a social contract into which men are bound to enter, is

equally unsatisfactory in its own way. Starting from the idea of the community as simply an aggregate of individuals, it goes on to account for the fact of society by affirming the existence of a contract, actual or implied, as its foundation. This gives no justification for the existence of the State, since it makes society an arbitrary combination of individual wills. There is nothing to compel individuals to enter into the contract, and therefore nothing to explain why it should be made. To reduce the contract to a mere expedient for attaining a larger amount of happiness, does not explain why any man should be under obligation to assent to the contract, if he thinks he would obtain more satisfaction by purely individual initiative. And if all men should take this view, as according to the theory they might, what becomes of society and the State? We must therefore go deeper than any contract if we are to account for the real foundation of the community. Carried out consistently the theory can only explain the compulsion placed by society upon the individual by saying that the good of the greatest number is more important than the private interest of any individual. But this obviously identifies the State with the power of the majority to have its own conception of good forcibly realised. It may be said that the individual may be "forced to be free," as Kant affirms; but this is really an evasion of the difficulty; for the individual is not "free" if he dissents from the contract, but on the contrary he is simply forced to submit to the greater force brought to bear upon him. We must therefore revise this whole conception of the foundation of society. It is not any number of separate individuals, choosing to make a pact with one another, that justifies the existence of the State. The real justification is to be found in the social nature of man, which is a fact whether it is recognised or not.

Freedom consists in the actual realisation of this social nature. No contract is needed, but only a recognition of the actual character of human life. The whole complex organisation of society gets its justification from its fitness to realise man's essential nature, and different political constitutions must be judged by this standard. It is for this reason that an absolutist form of government must be condemned. It is not that it may not be, so far as it goes, a means of realising man's nature, but that it fails in one essential point, namely, in not allowing the individual to have a share in the determination of his own life. And the same objection must be brought against any attempt to destroy the subordinate forms of organisation by which human life is realised. Their destruction means that everything is determined from above. Thus the progress of humanity is inevitably arrested, because it is by the free but regulated action of these organisations, in subordination to the central authority, that the common will is expressed. For the same reason all rigid distinctions of class or rank are condemned, since these prevent the "open career" without which the individual remains only partially developed. Thus society and the State are concrete organisations in which the universal life freely pulsates, and that form of the community is best which best enables the totality of the citizens to realise all that is in them.

But while this is so, it cannot be admitted that any form of organisation, whether it be a Trade Union, a Club, a Joint Stock Company, or a Church, can claim to be absolutely independent. To say so, is to open up the way to anarchy. For the sake of efficiency each organisation must be allowed to manage its own affairs, but none may claim a right to act in defiance of the good of the community as a whole. (The principle of an enlightened State

is to grant freedom of action to all legitimate forms of organisation within its boundaries, but it cannot surrender its ultimate power of harmonising differences without ceasing to be a State. There are things with which it cannot interfere, but only because to do so is to violate its own nature. It cannot, or at least should not, interfere with the independent action of corporate bodies, except in so far as their action destroys or weakens the rights of individuals ; it cannot violate the rights of the individual conscience, or prescribe religious beliefs,—though it may prevent an ecclesiastical body from attempting to impose its creed by force—because its function is to provide the external conditions of the free life, not to attempt the impossible feat of making its citizens religious or moral. Religion and morality are matters of the private conscience, which it is unable to touch, and which it is fatal for it to attempt to touch. But within its own sphere it is supreme. The State must and does play a part in the adjustment of conflicts of authority or ownership of property, and in the exercise of this legitimate function it may have occasion to interfere, not with the private beliefs of its citizens—except as these may be translated into action that is inimical to the good of the whole,—but with the extra-legal operations of some ecclesiastical body, or with the tyrannous action of a corporation or fellowship. In virtue of its function as the central regulative body the State has a right to see that the internal organisation of either church or civil association shall not be inconsistent with the organisation of society at large. To hold otherwise is to condone the capricious action of a Church or Corporation, and to subvert the end and purpose for which political institutions exist.

It seems important that we should have a clear idea of what we mean by Sovereignty. Two powers are of inde-

pendent or co-ordinate authority when neither can in any way interfere with the other. On the other hand, one power is supreme over the other when in any respect it can dictate what the other must do or refrain from doing. In order to obtain supremacy it is not necessary that a power should interfere in all the operations of another body : all that is necessary is that within a certain sphere it should have authority to dictate or prevent the action of the other. We must therefore distinguish between Absolute Supremacy and Relative Supremacy. The former is incompatible with any independent activity on the part of any other body ; the latter is only incompatible with activity of a certain kind. These two things seem to have been confused in much of the recent attacks upon the supremacy of the State. Relative supremacy is not affected by the fact that one power is subject in some respects to the other. A body may have supreme power within its own domain and yet be subject to the other power beyond that domain. Thus a Church, a Family, a Trade Union, may be beyond interference by the State so far as it has a certain sphere of operations assigned to it with which the State may not legitimately interfere. To affirm that the State may be absolutely supreme means that the other Power is in no sense independent ; in other words, that all action proceeds from the State. But this is a view which, so far as I know, no modern English or American writer maintains. Each of the bodies mentioned has its own jurisdiction, and for the State to interfere within that sphere would be to assert absolute sovereignty, and to take away from the other power all its authority

Take, for example, the Family. Here the authority of the Heads of the Family in regard to the family life is not subject to the State. The conduct of children is at the

command of the parents to whom they owe obedience. But the authority of the Family is not absolute. To begin with, it rests in a civilised country on monogamy, and the claim to override this provision on the part of any family will be resisted by a civilised State. Moreover, the State may enforce the principle that the younger members of the family must submit to the education demanded by the State on the ground that it is essential to the good of the whole community. Again, the State regulates the provisions for property. Thus the State has a Relative Supremacy in relation to the family, but not an Absolute Supremacy.

Similarly, a Trade Union has an independent jurisdiction in regard to its members, who must submit to the rules of the association. On the other hand, the Trade Union has not Absolute Supremacy even over its members, much less has it power to compel all workmen to belong to the association. The Trade Union in the exercise of its authority cannot override the laws of the State as regards property or the right to life and independence of its citizens. Obviously, therefore, the Trade Union has not absolute supremacy, but only supremacy in subordination to the regulations of the State.

What now shall we say of the relation between the State and the Church? Have we here an exception? Is any Church supreme in the sense that it is absolutely independent of all State Control? In other words, are Church and State two bodies of absolutely co-ordinate authority? Surely the mere statement of the problem is enough to suggest the answer. The question is not whether a Church has authority within its own sphere, which no one denies, but whether it has absolute supremacy in the same way as one State is independent of another. A want of clearness on this point seems to me to vitiate

much of the reasoning of Mr. Laski in his interesting discussion of the problem of Sovereignty.

Mr. Laski says that "just as the mediæval State had to fight for relief from ecclesiastical trammels, so does its modern exclusiveness throw the burden of a kindred struggle upon its erstwhile rival."¹ The suggestion here seems to be that the Church is now fighting against the claim of the State to destroy its independence, and to assert its own claim to co-ordinate authority with the State. But the State does not seek to destroy the authority of the Church within its own domain, but only to regulate its action in the interest of the community. So far as a Church is an association for the furtherance of the religious life, and keeps to this its proper task, the State cannot rightly interfere with it. It cannot interfere, because its weapons are not spiritual but secular. But it does not follow that a Church may make a rightful claim to unlimited authority. The weapons that a Church may use being spiritual, it exceeds its sphere if it brings pressure to bear upon its members of an external kind, and the State cannot allow such pressure to be exercised. Moreover, the State must regulate the rights of ecclesiastical property. The authority claimed by the State is not Absolute but Relative Sovereignty, whereas Mr. Laski seems to represent the problem as one in regard to the Absolute Sovereignty of the State, which threatens to destroy the Relative Sovereignty of the Church. This at once introduces an initial confusion, of which, unless I am mistaken, he never gets rid. He says that "the Church . . . is compelled to seek the protection of its liberties lest it become no more than the religious department of an otherwise secular organisation." That is, the Church has to fight against the claim of the State to dictate its whole action. But the State

¹ *The Problem of Sovereignty*, p. 270.

is not Sovereign in this sense : it does not, or at least should not, interfere with the internal organisation of the Church, unless the action of the Church interferes with its own proper sphere. Then indeed it will interfere, and rightly so. To say that the Church may have an authority which is denied to the State, and may act in opposition to the laws of the State, is not even to assert its equality of authority with the State, but to make a claim for its Absolute Sovereignty ; for if a Church may override the regulations of the State in one respect why not in all ? And then what becomes of the authority of the State ? It is simply swallowed up in the authority of the Church.

Our conclusion, then, is, that while Church and State are each supreme within its own sphere, there is this difference between them, that the latter, while it will not interfere with the proper action of the former, yet will not allow of any encroachment upon the rights of its citizens, and therefore it may be called upon to exert its authority when the Church exceeds its proper limits. The Church, on the other hand, as an organisation for the maintenance of the religious life of its members, has necessarily a more limited sphere than the State. How far it may expel from its membership those who are held to be faithless to its doctrines, it is not necessary to consider ; but a Church cannot be allowed to employ the arm of the State to compel its refractory members to alter their ways. The State is the custodian of rights, and will brook no interference with its authority so far as these are concerned. Thus, whatever the special relation of a Church to the State may be, it has no rights contrary to those that are embodied in recognised custom and within law. In two ways, therefore, the State is sovereign : firstly, in that its authority extends to all the citizens without exception, and secondly, because it is the supreme authority for the settlement of

all disputes between the Church and other organisations or individuals.

The conception of the State which I have tried to indicate is, then, that the sovereign power is not to be identified with the government, but rests upon the will of the people as a whole, or rather upon their rational will, which is not always the same thing as what the majority may suppose it to be. To this view certain objections have been made, which it will be well to consider. It is asked why the State should be assumed to have a superiority over all other institutions. A citizen may belong to a Church which includes in its members citizens of other States than his ; or he may belong to a company of scholars much more closely in contact than the citizens of any State : or he may belong to a non-nationalist company or a labour union. Hence, it is argued, the Community is much wider than the State. Nor is there any reason for regarding the latter as more valuable than other institutions. In truth no institution is sovereign. The relation, for example, between Church and State is not one of subordination, but of co-ordination. No doubt the State provides the opportunity for the enjoyment of those goods which the other institutions supply ; it is the highest institution for a political purpose, but not the only institution even for that purpose. Subordinate to it are municipal councils, provincial, government and other organisations. Over these it is sovereign, but not over non-political organisations. The purposes of law and government are to secure to citizens order and liberty, but there are many things with which it cannot interfere, such as art or science or religion, although, no doubt, none of these could exist without order or liberty.

Now, if I have made at all clear the conception of the State on which the idealist doctrine rests, it must be mani-

fest that the main contention here set forth is one which is endorsed and has been repeatedly stated by the exponents of idealism. The general will is not expressed in any one institution, but in all the institutions, voluntary or involuntary, which form the very complex web of modern society. We may, if we please, call other institutions the Community, not the State, but things are not made different by attaching to them different names. The main point for which we contend is not that the political organisation is absolutely supreme over other forms of organisation, but that it is the final means by which the other institutions are brought into harmony with one another, and prevented from interfering with the rights which it is the especial business of the State as a political organisation to provide. The political organisation is not supreme in the sense of including all other institutions ; on the contrary, it is its function to see that these are allowed perfect freedom to manage their own affairs,—always provided they do not clash with one another, and do not destroy the liberty of the individual. It is admitted that one institution may be subordinate to another, and this admission seems to imply that ultimately the institutions so subordinate are not of co-ordinate authority with one another. It cannot be fairly contended that the Church is absolutely independent of the State in the sense that it can interfere with the rights of citizens,—rights which are guaranteed, not by the Church but by the State. Nor can it be justly maintained that the Church is not subordinate to the State in relation to its property. The control of property is essentially a matter for State action. It is perfectly true, as has been already indicated, that the State cannot interfere with the religion of the citizen, or at least ought not to interfere with it, but the reason lies in the character of State action, which is limited to the external conditions

of the good life. It is also true that the central authority cannot determine the character of artistic products or dictate the conclusions of the man of science—though it may turn his attention to the application of science to industrial pursuits—but it does take care that the artist or the man of science shall not trespass on the rights of their fellow-citizens. Will it be said that the United States was not justified in abolishing polygamy, on the ground that it was contrary to the conditions essential to civilised life? Will it be argued that should a Church arrogate the right to punish anyone who does not accept its creed, a stop may not be put to this arrogant and unjust procedure? It is hard, therefore, to see how the new theory of the community is in essence different from the old. Nor is the relation of the State to municipal councils and provincial governments at all inconsistent with the claim to sovereignty. For Parliament is not to be confused with the State. The State is the totality of institutions by which the common weal is secured, and it is a matter of no importance, so far as the question of sovereignty is concerned, whether the government is carried on by one central organisation or distributed among several; in either case the sovereignty does not lie in either, but in the common will. As Sir Frederick Pollock says: "The minimisers of the State's function appear not to distinguish sufficiently the action of the State in general from its centralising action. There are many things which the State cannot do in the way of central government, or not effectually, but which can be very well done by the action of local governing bodies. But this is a question between the direct and the delegated activity of the State, not between State action and individual enterprise." Nevertheless the final decision rests with the organ which represents the summing up of the general will. The central govern-

ment, representing the final will of the citizens, so far as it is made explicit, is the final authority for determining the functions of the decentralised bodies, though the complete will of the citizens expresses itself through all the organisations of society. The adjustment of the proper relations between the central government and local or provincial governing bodies is a matter of practical experience. It is of importance that the central government should not be overburdened with detail, but on the other hand many good measures may be inoperative from the remissness of local bodies.

It will be understood from what has been said that there is no intention of undervaluing the importance of subordinate institutions. As Mr Bosanquet has clearly pointed out, it is by means of these subordinate forms of social life that the experimental and inventive element is prepared for embodiment in legislation, the work of the central government being mainly to endorse the results of social co-operation. Nevertheless, as he rightly holds, all society is under the final control of the State, which includes the whole field of social co-operation, its special task being to adjust and reconcile the institutions which it contains in a self-consistent system. Why this view should be accused of some terrible crime in identifying in this sense the State with the whole group of organisations by which the whole life of a people is carried on it is difficult to understand, unless a claim is made for absolute non-interference with them. Such a claim, however, does not seem to be made, and it must be by confusing the legitimate control by the State of other forms of association, in which the general will is partially realised, with an absolute control which not only adjusts their relations to one another and to the rights of individuals, but absolutely determines their actions, that the idealistic doctrine can for a moment

be supposed to be inconsistent with the importance attached to these subordinate forms of organisation. As Mr. A. C. Bradley points out, "The citizens are not a mere collection or aggregate but form an organised whole, performing a multitude of different functions which should, and more or less do, so complement and play into one another that they make a common life and produce a common good."¹ At the present day there is an enormous number of associations of every kind: political, economic, religious, educational, scientific, artistic, literary, recreative; and these are in their combination distinctive of the modern as distinguished from the ancient State, and add to the intensity and complexity of modern life. The State as sovereign does not seek to suppress these, but on the contrary welcomes them as means of fuller life. Only if the members of any of these associations act in a way that is prejudicial to the common good does the State, if it is wise, attempt to interfere with them, but the fact that it may interfere shows that it is the ultimate court of appeal for its own citizens. That the members of the association number in their ranks men of other nationalities will be permitted, provided the foreign element is not injurious to the conditions that have been established for the common good of the citizens; nor will it object to the international character of an association unless the constitution of the association is incompatible with its own autonomy. Thus over its own citizens the State has complete control. It seems to me to be entirely misleading to contrast the limited area of a State with the wider area of a Community; for the action of a State extends in principle beyond its own area. Each of the different nationalities represented in a Labour Union, for example, is subject to the control of its own State, and it is as

¹ "International Morality," in *The International Crisis*, p. 48.

little to the purpose to say that the association is supra-national as to speak as if the internal organisations different from the political were outside the sphere and influence of the State. Normally no State will interfere with the actions of the citizens of another State, but it will interfere with those of its own citizens, or in their behalf, who are temporarily living abroad, unless they have abandoned their allegiance to itself. Of course a nation is the custodian of the interests of those living within the boundary of its own territory, but its action is not limited to its own territory ; it makes laws or passes resolutions which involve relations to other nations ; but this does not interfere with its right to see that its citizens do not transgress the laws of their own country. It thus seems to me that the control exercised by the State is just as wide as that of the Community. The citizen who belongs to an international association does not thereby escape from its supervision and control, so far as the State has any right to exercise supervision and control over him.

It cannot, then, be admitted that the State is sovereign in the sense that it has an unlimited power of regulating the life of its citizens. Hegel, indeed, allots to the power of the State, as acting through its officials, an amount of power over the individual which would be intolerable to an Englishman or an American or a Canadian. But this cannot be said to arise from his identification of the State with society—an identification which he does not make—but from his belief that it is essential to the realisation of the good will. Hegel argues that the trained official is better able to judge what is for the public good than the unenlightened citizen. This may be admitted without any admission of the corollary that society must be entirely regulated from above. It is only in the sense that the final adjustment of other institutions is necessary, on the

ground that there must be some ultimate court of appeal, that the State is said to include all the institutions of society. But this does not allow to it an absolute right to determine the action of the subordinate institutions. Freedom of life to citizens to form what associations they please, and to construct rules for their own guidance, is implied in the whole conception of the State as the organisation by which the best life is realised. It is by the free action of various subordinate forms of association that progress is made possible in the community, and the function of the State is not to dictate to those institutions their action or to impede its exercise, but to aid them in every way compatible with their harmony with one another and with itself. For this reason the various institutions of society must be under State supervision. It is obvious that on this view no claim is made to defend an absolutism which would regulate every department of life. On the contrary a Socialist would certainly say that the theory outlined errs in not allowing sufficient regulative power to society.

It is of great importance to recognise that the State cannot be identified with the Government, which is merely the organ through which the harmony of the various organisations included in the State is effected. "The State," as Mr. Bosanquet says, "includes the whole hierarchy of institutions by which life is determined, from the family to the trade, and from the trade to the Church and the University. It is the structure which gives life and meaning to the political whole." This seems to me to dispose of the criticism of Mr. G. D. H. Cole, who correctly points out that Rousseau objected to every form of particular association, whereas the characteristic of modern associations is speciality of function.¹ But Mr. Cole

¹ *Proceedings of the Aristotelian Society*, vol. xv. p. 144.

means to exclude these associations from the State, whereas the idealistic view is that they are required for the complete expression of the general will. Such an opposition would seem to imply that by the State is to be understood only the governmental machine, and therefore a contrast is drawn between the State as one association, with which other and non-governmental associations are contrasted. But, if by the State we understand all the associations by which the general will is expressed, such an opposition is obviously inadmissible, since it would identify a part of the whole system of associations, namely, the Government, with the whole. It is true that the political organisation of a people must be distinguished from the State as a whole, the special function of the former being to reconcile conflicts of subordinate associations with one another or with itself. Such an organ is required, unless we are prepared to say that the conflict must remain unreconciled. Nor is there anything in this conception to prevent the appointment of special commissions to help in the adjustment of differences between the subordinate associations; though ultimately they must be subject to the political organisation, if other means are found inadequate. It is therefore no real objection to this view to say that "the very existence of particular associations is a sufficient proof that the State cannot fully express the associative will of man." This is undoubtedly true, if we identify the State with the governmental machine, but obviously inept on a theory which regards these associations as an integral part of itself. "All social machinery," says Mr. Cole, "alike in its agreements and in its conflicts, is a partial and more or less successful expression of the general will which every community possesses." This may be at once admitted, but it does not affect the doctrine which has just been stated, that it is the general good which is

the ultimate object of allegiance. This, of course, means that the Government is responsible to the people by whom it is elected, and in this sense the individual is not called upon to serve the State "with a loyalty surpassing and different in kind from other loyalties." But the individual is bound to conform to the general will. No doubt it is not always easy to discover wherein this general will consists. But the whole history of man is the process by which the discovery is made, and it may be assumed that while the process does not result in absolute comprehension, it is in a well-organised State at least in the line of development towards it. If it is denied that there is any organ for the final expression of the general will, we place all associations on the same level; which leads to the conception of the various forms of organised life as related simply as a loose confederation, with no means of adjusting conflicts between them.

When we look beyond the internal affairs of a particular State we find, says Mr. Cole, that there are relations of individuals and of groups which extend beyond the boundaries of a single State, "Religion, industry, the arts, morality—all furnish instances of inter-State grouping, and all give rise to obligations which may conflict with loyalty to a State."¹ This view seems to depend for its plausibility on the identification of the State with the Government, and on the assumption that the former is limited to what concerns only a particular area. The State, however, we contend, is not the Government, but the whole system of organisations by which the general will is realised; and it is a false view which conceives of it as confined within a given area, merely because in the normal exercise of its function it legislates for a people so confined. An enlightened State, as we have said, will

¹ *Proceedings of the Aristotelian Society*, xvi. p. 313.

not attempt to coerce men in matters of religion, nor will it set limits to the free production of art by any assumed moral criterion, and in dealing with questions of trade and commerce it will have to consider the economic conditions of its people—though I believe it is an entire misunderstanding of the interests of its people to assume that questions of trade and commerce can be satisfactorily dealt with on the principle that a State must be self-sufficient. But while all this is true, it does not follow that there is no place for the effective control of religious institutions, of industry and of art. There is a definite sphere in which the State is supreme, and neither an ecclesiastical body, nor a trade union, nor an association of artists can contravene the conditions essential to the best life of the citizens. Within their own sphere these associations will not be interfered with by an enlightened State, but, on the other hand, they cannot be allowed to threaten its own existence. The State has the right to determine the conditions under which trade and commerce are carried on, so far as that is necessary in the interests of the whole body of its people. An enlightened State will not pass laws which assume that the economic good of its citizens is incompatible with the economic good of the citizens of other countries ; but the reason is that such legislation is not in the interest of its own citizens any more than of those of foreign peoples. If, on the other hand, the Government is convinced of the opposite principle, believing that that which is good for its own citizens will inflict harm on the citizens of other States, there is no remedy for it but the enlightenment of the people, which may lead to more rational action. Meantime, no nation can be prevented from passing restrictive enactments which damage both itself and other nations. That is only part of the process by which an advance is made from less to

more reasonable modes of action, and has nothing to do with the question of the limitation or non-limitation of State authority. The question in regard to art is of a similar nature. If a State, rightly or wrongly, regards a certain form of artistic production as contrary to the moral interests of its people, it is justified in placing restrictions upon it on that ground. This is a region, no doubt, in which there is great liability to error, but that does not prove that the supremacy of the State should therefore be limited : what it shows is that it should be enlightened.

Individualism, as we have seen, assumes that man is always seeking his own personal good. This is true enough if it is interpreted to mean that man is ever striving to attain to the perfection of his nature ; but it is not true if it is supposed that he is not aiming at objective ends, but only at the pleasure which is incidental to those ends. If man's good could be abstracted from the character of the objects pursued, and ascertained simply by asking what amount of pleasure can be obtained, it might reasonably be argued that as each individual has his own idea of what he wants, any external interference with what he desires will frustrate this object. Hence the Individualist naturally objects to State interference, on the ground that it prevents him from pursuing the ends which, as he believes, will secure the greatest amount of pleasure or happiness for himself and at the same time for others. It is true that Individualists are sometimes better than their theory. Mill, as we have seen, holds that a man may sacrifice what he regards as his personal good in deference to an ideal. But this is a virtual denial of the hedonistic creed as it was logically developed by Bentham. On the principle of Individualism it cannot be shown that my egoistic desires, if I believe them to be such as will secure my greatest good, are not as justifiable as my so-called

altruistic desires ; for no immediate desire can be really altruistic, as Bentham recognised. If it is once admitted that only by following the common good can I really obtain the highest satisfaction, it is obvious that I am, on hedonistic principles, only showing my good sense in seeking to obtain in that way the greatest happiness of which I am capable. But this does not make my course one whit better morally than if I followed my egoistic desires in preference to the altruistic. Thus morality in the sense of what is universally binding disappears. The individual, it is held, must be free to follow his desires, whether they lead to egoism or altruism. For this reason he must not be coerced in any way : the logical conclusion from which would seem to be that there should be no interference whatever with the individual.

Idealism starts from the opposite principle, namely, that the good of the individual is identical with the good of the community. It is held to be man's nature that he cannot find permanent satisfaction except in identifying his personal good with the good of the community. This does not mean that he will not have to sacrifice his pleasure in certain cases in view of its disharmony with the true end of his existence. But though he thus gives up his immediate desires, he will, as Mill admits, find satisfaction of a higher kind. That being so, in his best mind he has no objection to State interference which is not in harmony with his private and particular desires, but is in harmony with his own explicit or implicit ideal of himself. The laws of the State may well be identical with his own real will ; and if they are not, they are condemned as not realising their end. This at once explains the habit of obeying without question the ordinary laws of the State, and also the opposition to those laws, actual or proposed, which are not in harmony with man's ideal of himself.

The State in its performance of those acts which agree with his own deeper will is therefore acting as if he of himself directly passed the laws. It makes no difference to their obligatory force that they are not directly made by himself, but only through his representatives, provided only that they are in accordance with his conscious or unconscious will. The laws of a nation are therefore on the whole the expression of those objects which are of vital interest to human life, and all the institutions of society are of this nature. Those institutions are, like individual habits, the embodiment of the conclusions reached by society at a given time in regard to the conditions requisite for the fulfilment of the ultimate purpose of organised life, namely, the good, not of this or that individual, but of all the citizens. Written laws are the definite formulation of a people's conception of what is for the good of all. The size of a modern State prevents everyone from personally giving his assent to proposed laws, but even if it were possible to get the opinion directly of everyone, that would not establish them as obligatory on the individual. Nothing makes a law obligatory, but its harmony with the real will of the community, and the dissent or assent of individuals does not either prove or disprove its reasonableness.

There is no opposition between the good of the citizen and the good of humanity; on the contrary, it is by providing the external conditions under which a people may realise the higher life that the cause of humanity is best furthered. For each nation has its own special task, arising from differences in climate, economic, religious, artistic and scientific relations. These, as they vary in different nations, make it necessary that each State should legislate in its own way in behalf of the interests of its people; but it is a mistake to suppose that these are

incompatible with the interests of other nations. The organism of humanity no more demands sameness in nations than in the institutions of a single nation ; individuality in nations is essential to the full development of mankind. Since man is ever striving after the highest moral good, or the realisation of his essential nature under special conditions, it is the object of the State to provide for the free development of the individuals under its superintendence. In this sense the State has a moral purpose. Aiming at the highest good of the individual, it cannot allow itself to be dissuaded from interfering with the actions of individuals on the ground that men have a right to do what is essential, or seems to be essential, to their personal happiness. The personal, as distinguished from the common good, is not a legitimate end of action. Man, as Aristotle said, is a social and political being, and the limits to public action are determined by reference to the common good, which cannot be secured by unlimited interference. The State cannot directly promote morality, because morality is a matter of will and motive, and though it can secure outward conformity to law, it cannot penetrate to the inner self. But, subject to this restriction—a restriction which is essentially moral, because any attempt to promote morality directly will only diminish or prevent it—any regulation may be passed which is in the interest of the community. Thus the State is a moral agent, though not directly so. It has been said, following Kant, that its object is to “hinder hindrances.” And no doubt this may be taken as on the whole its function ; but it seems better to conceive of that function as rather to promote by all legitimate means the physical, mental and moral well-being of its citizens. On this principle legislation for the prevention of disease is entirely in harmony with its aim. Similarly, it may be held that it has

a right to pass laws, such as Factory Acts, which promote the physical well-being of the individual, not to speak of the effort to provide such conditions of existence as will make it possible that all citizens shall have the opportunity of living a decent human life. It is part of its task to see that the children do not grow up in an ignorance that makes it impossible for them to discharge later the duties of a good citizen. Thus freedom as secured by the State is at once a positive endeavour to promote the good life and a definite and systematic attempt to secure that end. Nothing can be good which is not a means to the promotion of the fullest life of every individual in the community, and whatever promotes that life is by its very nature good.

There can be no State in the proper sense of the term that is liable to dictation from another State. A State must be autonomous and self-governed, otherwise it ceases, to the extent in which it is interfered with, to be a State. This does not mean that it may not agree to suggestions from a foreign State, but it does mean that it must freely accept those conditions and not be forced to accept them by external pressure. Nor again does freedom or autonomy mean that a State must think only of its own selfish interests, or even seek to inflict harm upon a neighbouring State. There is nothing in autonomy to interfere with the widest possible conception of what is best for mankind as a whole, unless we assume that what is best for mankind is necessarily antagonistic to the good of a particular State. It may well be that the good of a State is identical with the good of mankind as properly conceived. If there is to be such an action of States as will at the same time promote the good of mankind, it must be because there is a rational will which is the expression of the best mind of the community. If there is no such

will, then there is neither a single State nor any possibility of the harmony of different States one with another. It is obvious enough that the morality of the State is not identical with the morality of private life. Private life involves the "kindly charities of husband, son and brother," and all those acts which are implied in a Christian civilisation; whereas the function of the State in reference to its own citizens is to make such acts possible by its regulations, not to enforce them. On the other hand, there are acts which a State cannot do without violating its duty to humanity. It cannot, because its morality is different from that of private morality, throw all scruple to the winds, and practice any amount of fraud, cruelty or violence which its agents think to be necessary. "The State as such," says Mr. Bosanquet, "can have no ends but public ends; and in practice it has none but what its organs conceive to be public ends. If an agent, even under the order of his executive superior, commits a breach of morality, *bona fide* in order to what he conceives to be a public end desired by the State, he and his superiors are certainly blamable, but the immorality can hardly be laid at the door of the public will. . . . To speak of the question as if it concerned the conduct of statesmen and their agents, instead of the violation of a State as such, seems to introduce confusion. We are discussing the parallel between public and private acts, and we are asked to begin by treating the public acts as private." ¹

The difficulty in accepting this view of the matter is that by a curious process it seems to take all the responsibility from the State and to impose it upon its agents. It is true that an agent may be ordered by his superior to do an act against which his conscience revolts: say, to massacre innocent civilians, including women and

¹ *Phil. Theory of the State*, p. 322.

children ; and if I understand Mr. Bosanquet rightly, he would claim that the State is not in any way responsible. And no doubt there is a question how far a soldier may violate his conscience at the command of a superior. That is a question of the casuistry of conscience, which it is not necessary to discuss. But, suppose the superior is acting under the authority and the express command of the government, are we to say that the government is not responsible, and that " the immorality can hardly be laid at the door of the public will " ? Who then is responsible ? Apparently not the " public will," that is, the State. But surely, though it may fairly be held that we must assign responsibility to the subordinates of the government, we must at the same time place responsibility on the heads of the government, of whom the subordinates are but the tools. Now, admittedly the action of the government receives all authority from the will of the people. This is in accordance with Mr. Bosanquet's theory of the State, and it is difficult to see how otherwise any authority can be assigned to it at all. If it is answered that the government has not received authority from the " public will " for an outrage of this kind, and therefore is not in any way blamable, we seem to be asked to admit both that the government acts as an agent of the people, and that it may act on its own responsibility. This destroys all possibility of having the " public will " implemented, and seems to lead to the conclusion that an action may be contrary to the general will and yet not be done on the responsibility of its mouthpiece. Now, it is true enough that a government may act in contradiction of the " public will," but in that case it is surely responsible for its action to the people. So long therefore as the people do not register their dissent from the kind of action referred to, they must be held responsible for it.

in harmony with the "true will" of the nation, but we cannot identify the true will with the will as actually existing at any given time. Thus we get the conclusion that there is a breach of the true will of the people, but not of the actual will. The nation is absolved on the ground that it cannot be expected to endorse the ideal. Granting this obvious fact, the nation must be judged by its actual and not by its ideal will. And as its actual will must be regarded as expressed by the government, or not expressed at all, it seems manifest that the public will is responsible for the kind of action referred to. When, therefore, Mr. Bosanquet says that the question concerns the volition of the State as such, it seems to me that he must either regard such actions as due to the State or as not blameworthy at all. Will he say that the murder of innocent civilians is in harmony with the idea of the State? If not, it is hard to see how he can exonerate the "public will" without admitting that such acts are quite within its legitimate sphere. If indeed the acts are done in contradiction of the public will, then no doubt the responsibility must be placed elsewhere; but if they are the acts of the government, which is an accredited agent of the people and expresses its actual will, it must be held that the really responsible agents are the people and not the immediate agents. It is not to the purpose to say that we must distinguish between the private acts of subordinate agents and the public acts of the State; for this does not show that the State is free from all moral obligation; it only shows that its acts differ from those of a private individual.

The State, then, must be held to be an organised society of men, and cannot be regarded as justified by its distinction from the individual citizen in practising breach of faith, fraud, violence of all kinds, and atrocious cruelty

no sensibilities. They have rights, though not the same rights as himself, and his obligations correspond to them. To use them as mere instruments for his own gain or pleasure is entirely immoral. The only defence of his rule over them is that he belongs to a higher stage of civilisation, and it is his duty to rule them entirely with the end in view of gradually making it possible for them to lift themselves to a higher plane. The true policy for a State and for humanity as a whole is to act so as to merit the reputation for good faith, justice and peaceableness ; and, while admitting that it may be called upon to make war in defence of its own existence, to carry on war at least in a way that does not fall beneath the recognised code of International Law, as first formulated by Grotius and elaborated during the last three centuries by jurists and statesmen.

CHAPTER TENTH

SYSTEM OF RIGHTS

IN order to realise the good will a system of Rights is necessary. As the ultimate object of society is the development of the best life, each individual must recognise the rights of his neighbour to as free development as that which he claims for himself. The justification of this claim is not any fictitious "right of nature," but the just claim that without freedom to live his own life under recognised external conditions, he is not capable of contributing his share to the common good. A man has rights which are recognised by society, but they are not made right by legislation, as Bentham held, but are recognised because they are essential to the development of the common good. The possession of rights and their recognition by society are not two different things, but the same thing ; for, as the individual claims rights in virtue of his being an organ of the common good, so the State recognises his rights on the ground that they are required for the realisation of the highest good of all. The State, we may say, is under obligation to secure to the individual his rights, and any State which fails to do so ceases to fulfil its essential function. We must therefore distinguish between actual States and States as they ought to be. In a State which is fulfilling its proper function rights are recognised and embodied in its laws and constitution, but the rights are not made by this recognition ; the recognition is made

because rights belong to man as a moral agent whose will is realised through them. We may, if we please, call rights "natural," so long as we do not suppose them to belong to man in his isolation. It is the common moral consciousness which justifies them, not any legal enactment.

From the nature of the case rights must be enforced. What, then, is the Power by which they are enforced? It cannot be based upon mere Force, but only upon the rational ground that it supplies the conditions under which the good will may be realised. The sovereign authority is not the personal will of any individual or any class, but the common or rational will—that will which the individual in his best mind recognises. Therefore the common consciousness not only creates rights, but creates the sovereignty which is essential to their maintenance. Ultimately it is the general will which is sovereign. This simple principle has been obscured by the confusion between the nominal, the legal and the ultimate political sovereign. The first is the constitutional sovereign, who in England is the King, in France the French Republic, in the United States the Federal Government. The second is the supreme law-making body, in Great Britain the Parliament. The last is the general will, operating through persons, but more powerful than they, and the ultimate source of authority. The authority of the legal sovereign is derived from the ultimate political sovereign, which expresses itself by means of representative institutions and in other ways. Ultimately, therefore, it is the general will which is sovereign, and it is the duty of the legal sovereign to discover what this general will is. The people, on the other hand, can only be called sovereign in fact when they will that which subserves the true end of all political action. The general or rational will thus creates rights, creates the system of rules by which

to innocent civilians. Even in war there is a code of morality which a nation is bound to obey. A nation at war must not make a regular truce, and then massacre a confiding enemy. It is contrary to the usage of civilised nations to use poison, to butcher non-combatants in cold blood, to torture prisoners, and so forth. There is a very high standard of public morality which is recognised and accepted by civilised peoples, and the nation which violates these accepted conditions of war is not only untrue to its express pledges, but is acting contrary to the dictates, not of private, but of public morality. It has bound itself not to kill, destroy or deceive except so far as it admits that the enemy is equally justified in doing the same kind of things in retaliation. Nor is it to be overlooked that a combatant not only cannot in fairness act otherwise than he admits the right of the enemy to act, but every breach of the recognised code of International Law is an incalculable lessening of the humane conduct which the human race has worked out by a long and slow process. And apart from the agreements recognised as applying to a state of war, we have to remember that the normal relation of nations is not war but peace. No doubt a man's duty to a stranger is not precisely of the same kind as his duty to an intimate friend or a relative, but it does not follow that he has no duties at all to the citizens of other nations. It is his duty to defend his own country, and he is not called upon to defend a foreign country ; nevertheless, he has duties to the residents of other countries, which spring from his relations to them as members of the human race. If he is dealing with men of another race he is not absolved, nor is the State absolved, from fair and honourable conduct ; and if he is dealing with races inferior in civilisation, he cannot be allowed on any defensible system of morality to treat them as having no rights and

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they are maintained, and creates the sovereign whose function it is to enunciate and enforce the law, and to sustain the harmonious operation of the institutions in which rights are embodied.

It may be objected that the people cannot be the ultimate sovereign because the rational will is not explicitly present in the citizen. To this objection we may answer, with Green, that a consciousness of this will is really implied in the ordinary behaviour of the humblest citizen who does not belong to one of the dangerous classes. There are certain moral obligations which he recognises as binding upon him, and as the authority of the sovereign power arises from the fact that it subserves the end of securing the fulfilment of the common will, this recognition of his moral obligations by the individual is virtually an endorsement of the duty of obedience to law. How far existing law is imperfect involves other questions, but whatever the special form of the State may be, it is a State just in so far as it actually realises the rational will. Meantime it is important to insist that it can rightfully bring force to bear upon the individual only because it represents the will of the community.

It may be said, however, that to speak of the State as the product of reason and will is to overlook the fact that man does not always act from the consciousness of the good to society to be attained by his action. Great part of his life consists in the expression of his immediate impulses and instincts, and it is therefore, it may be urged, a distortion of facts to ascribe the growth of society to definite thought and volition. There is a whole side of man's nature in which he is acted upon by suggestion, associations of ideas and habits. Men are not definitely seeking the common good, nor even their own personal good. Man is much more complex than this truncated account of

his action would have us believe. "Politics," says Mr. Graham Wallas in his *Human Nature in Politics*, "is only in a slight degree the product of conscious reason; it is largely a matter of subconscious processes, of habit and instinct, suggestion and imitation." He therefore resolves much of human action into sensation and impulse. "Man," he says, "like other animals lives in an unending stream of sense impressions." We fix our attention on what in this stream of impressions calls up by association something similar, and this suggests a whole set of impressions. Names have a great weight with the majority of men. This is the explanation of the success of the politician, who plays on the susceptibilities of the ordinary citizen by party means, party colours, and party placards. "The empirical art of politics consists largely in the creation of opinion by the deliberate exploitation of subconscious non-rational inference." Good may, indeed, result from this suggestiveness of names; there may come a time when the name of Humanity will become charged with emotion, and "an idea of the whole existence of our species may take the place of the present limited idea of 'Country' and 'Party.'" No longer will the electorate be hypnotised by all sorts of "suggestion," by means of which they are led to further the interest of a party or an organisation.

The contrast which Mr. Wallas draws between sense and impulse on the one hand, and thought and reason on the other, is one which will not bear careful examination. There is no such antagonism between sense and thought as he assumes. A pure sensation or a mere impulse is not to be found except by an illegitimate process of abstraction. When a man perceives an object he is already beyond the stage of mere feeling; he has advanced to the stage when the feeling is interpreted as pointing to an actual thing.

Thus we cannot identify sensible perception with bare sensation. It is not true that man "lives in an unending stream of sense impressions"; what he "lives in" is a world of more or less clearly defined objects. Were it true that his life is simply a succession of sense impressions, his world would never grow more and more complex, for the simple reason that there would be no "world" for him whatever. The very simplest form of conscious life is that in which an object is opposed to himself the subject, and such a contrast takes him beyond the "stream of sense impressions." From the first simple contrast of an object hardly characterised at all, to the most complex world of science, religion, and philosophy, man has left behind the stage of undifferentiated feeling which Mr. Wallas assumes. It is by the perpetual comparison of conscious objects with one another that he builds up his world. Nor is habit a mere association of feelings with one another: it is the crystallisation of experiences of objects. One sensation never "suggests" another; what is suggested is the similar qualities or relations of objects. There is no greater fiction of abstraction than the idea of one sensation as calling up a number of others. Similarly, the nominalistic theory to which Mr. Wallas commits himself is one the superficiality and falsity of which has frequently been exposed. As there are absolutely no undifferentiated feelings following one another in an endless chain, so a name is not a label put upon any series of feelings. A name is the sign of the permanent features of an object, as grasped by thought. In the world as known to us there are no isolated things any more than there are isolated feelings. A conception is no abstraction of the common attributes of a number of separate things, but indicates the mind's grasp of the principle by which things are bound together in a cosmos. The name "country"

is a symbol of the spirit which a people expresses in its whole manner of life. Thus we cannot separate perception from thought any more than we can isolate feelings. Thought consists in grasping the principles embodied in perception, separated from which it has no real content. The law of gravitation is not an abstraction formed by the simple comparison of a number of isolated things; it is the real principle manifested in things, without which they could not be at all. When, therefore, it is said that the history of man is an expression of a rational process, it is not meant that institutions in all cases are the deliberate result of any abstract process in which they are placed before the mind and the means for their fulfilment sought for. Political institutions exist before there is an explicit and reflective consciousness of their nature. Now, if it is true that the whole life of man is a comprehension of the real world and of himself, he cannot get rid of the unseen guidance of reason without ceasing to be a man. How otherwise than by supposing that reason is something more than direct ratiocination does it come about that the institutions of society do realise human purposes and display a rational system? How otherwise can we account for the progress which has been made in the forms of association by which human life is raised to an ever higher potency? Nay, how otherwise could Mr. Wallas' ideal of a time when the name "humanity" may come to mean "the whole existence of our species" be realised? It is because reason has been present in the different modes of the conscious life that by a slow process of trial and error society has been raised to its present eminence, and it will only be by a continuation of the same process that it will evolve into higher forms. Take away rational comprehension from the life of man and you leave only a mass of prejudices and habits which have no connection and no

meaning. It is true that much of the action of the ordinary citizen is the result of habit and of imitation ; but even these are the habit and imitation of a being always striving after the reasonable. A man cannot explain all his actions and show them to be rational ; most men are only able to see what they regard as their obvious duty ; but in their acceptance of the habitual life of their people they are guided by the consciousness of what they believe to be, and what in the main is right. Thus it may fairly be contended that reason is the ruling principle even when it does not rise into clear consciousness or can be defended on explicitly rational grounds. It is true that the ordinary man may be, and often is, misled by the catchwords of party ; but surely we may say that what misleads him is "light from heaven" For him "country" means much, and if he is apt to mistake what is for the good of his country by identifying it with the good of his party, this does not show that at bottom he does not act from reason, but only that he mistakes what is partially reasonable, or even pernicious, for really rational action. His real will, as Plato says, is to do what is reasonable, and whatever the sins of politicians may be, on the whole they are guided by the ideal of the common good. There is a continual advance towards this ideal. The habitual action of a people, as Lord Haldane has shown in his impressive address on *Higher Nationality*, may be regarded as registering the progress already made, even when the conscience of the ordinary citizen may not have reached the same level ; the decisions of judges are largely influenced by the wider consciousness working in the nation ; and the advance to a higher idea of life is brilliantly indicated by the heroism and unselfishness which come to light in such a crisis as the present war. We may therefore take comfort from the reflection that nothing will permanently satisfy

man but that which is in the line of evolution towards a good that is disinterested, reasonable, and humane.

If it is true that law proceeds from the will of the whole people, it may be asked whether the people as a whole or an individual may not refuse to obey a law that is, or seems to be, contrary to the common good. May not a law be resisted which has been passed by one party in the State, perhaps by a party elected on a different issue? Is it not reasonable to resist the enforcement of a law which seems incompatible with the general good? The conscience of the individual may be higher than the law of the State. Before the abolition of slavery the injustice of the slave laws was virtually recognised by the social conscience, and as a result those laws could not be properly enforced. This instance seems to afford us a principle by which we may distinguish the true will of a people from the law as it actually exists, and it may properly be argued that this does not apply in cases where the community has not reached the point of virtual denial of an existing law. It is only when the new rule cannot be shown to be the inevitable outcome of existing laws or customs that the proposed law may be fairly resisted.

It is the State which ~~creates and~~ maintains rights, since it is the embodiment of the common will of the community. We may define a right as the claim of an individual upon others which is recognised by the State, whereas a moral right is the claim of an individual upon others with which the State does not attempt to deal. The justification of all rights is their tendency to further the good of the whole community. This is practically admitted even by an individualist like Sidgwick when he declares that a man may be "called upon to make sacrifices of his happiness for the good or welfare of his country." Still, the good of a community is identical with the good of its members, for apart

from a community of some sort there is for the individual no rational end. The community itself is continually changing, and every extension of the range of persons effects a change in our moral judgments. The appeal to natural rights is only safe when it is interpreted as an appeal to what is socially beneficial, account being taken of what is not only immediately convenient to the existing members of a particular community, but of the welfare of the community in relation to the whole of mankind.

Is there an indefeasible right to life? Apart from the possession of a will which enables the individual to work for the common good, there is no such right. As every man has the capacity of acting with a view to the common good, the right to life is bound up with his position in the State; but as a man is also capable of being a member of any State, he possesses the right to free life as a human being. This conception has only gradually been reached. In primitive times no right to life was recognised as belonging to the member of another tribe; then, as various tribes united into a community of tribes, the same right was extended to all the members of the community. Even when this extension of the right was recognised as belonging to the citizen, it was denied to the slave, who was at the mercy of his master; and it was only by the growth of the Roman system of equity, by the influence of the Stoical doctrine of a law of nature embracing all men, and from the gradual realisation of the incompatibility with slavery of the idea of Christianity that all men are equal in the sight of God, that ultimately all men were recognised to have the same right to life. As the right is justifiable only as the condition of the free development of the individual in the service of society, it seems to follow that society should by its legislation secure that every one is in a condition to develop his capacity for public service.

It is commonly assumed that in a time of war the right to life and free activity are suspended, no matter what may be the occasion of the war. The only case in which war can be held to set aside temporarily the claim to life and freedom is when it is necessary to save the nation from destruction, or to fulfil its obligation to other States. It is the function of the State to establish and defend the conditions under which the best life is possible. Manifestly, therefore, nothing short of the threatened extinction of the State, or a violation of the national honour implied in the observance of its Treaty obligations, can justify the temporary abolition of the right of all men to life as a necessary condition of their contribution to the common good. Most wars have arisen, not because the existence or honour of the nation was at stake, but from dynastic ambition or national vanity, and such wars cannot be justified, nor do they allow of the plea to be urged that the right to life must give way when the very conditions of life are assailed. No State can be justified in ignoring the rights of man, however a particular nation, under present conditions, may be forced to go to war to defend itself from annihilation or to fulfil its obligations to other nations. War is always wrong, though it is not always clear on whom the blame must be laid. As States more and more realise their obligations to humanity, and legislate, not in the interest, or rather supposed interest, of their own people, the more certainly will the possibility of war be abolished and the abrogation of man's right to life be rendered improbable.

Has the individual a right to liberty? We must make it clear what we mean by liberty. There can be no right simply to be allowed to do anything that one would like to do, irrespective of what it is we purpose doing. Liberty is good or bad according as the things which can be done

are good or bad. The proper sense of liberty, therefore, is that every well-regulated society ought to secure to all its members, as far as possible, the opportunity of developing their natural gifts and powers so far as they can do so without detriment to one another or to the well-being of the community as a whole. It is not always recognised how much real positive liberty depends upon the existence of elaborate social arrangements, and especially upon a strong and enlightened government. Liberty is the essence of opportunity, for self-development is the creation of law, and not something which could exist apart from the action of the State. Freedom of thought, in the positive sense of the development of intellectual capacity, implies the existence of a good system of education, a high average of intellectual culture, in at least some class of the community, and the possibility of a satisfactory career for the citizens at large.

It is obvious that an absolute right of freedom of contract cannot be permitted in a well-regulated State. Such a right would mean that even a contract to commit crimes or to rebel against itself should be enforced. If, therefore, certain contracts may be refused, it is implied that it is one of the functions of the State to prevent or prohibit certain kinds of contract by refusing to allow legal remedies for their violation.

Is it permissible to use force against an existing government? The destruction attendant upon all interference with the actual conditions of life makes it necessary to consider whether, granting the justice of the indictment, there is a reasonable chance of not merely overthrowing the existing government or constitution, but of substituting something better in its stead. There is certainly no right of rebellion unless the conscience of the rebels is really better than that which is embodied in the existing

State. This principle applies to all opposition to proposed measures. It can only be after all constitutional means have been tried and have failed, or because the government make it impossible to have recourse to them, that rebellion can be justified at all ; and even then we must always ask whether the evils from which we are suffering are so great as to entitle us to risk disorder and bloodshed.

Justice demands that there should be equality before the law. Such equality is a necessary result of the conception of every one as a person. Equality in political rights, on the other hand, cannot be determined in this abstract way. The main reason for the extension of political rights to all persons of sound mind who have reached a certain age is that the exercise of political rights has an incalculable educational value and is essential to the realisation of the common good. For this reason there seems no just ground for the exclusion of women from the suffrage ; besides that, the special knowledge of the conditions under which their sex lives must form an important element in determining many social questions. The aim of all social and political regulations is always to secure the greatest good of the community, and it can hardly be doubted that an extension of the suffrage to all adults would work towards this end. But the mere extension of the suffrage is not enough, so long as inequalities in social condition prevent or make too difficult the development of all the latent capacities of the citizens. There must therefore be equality in the sense of equal opportunity. It can hardly be said that the child of vicious parents has an equal opportunity with the child who has grown up in a respectable household, though no doubt a compulsory system of education tends to mitigate this evil. The right of the child to be educated must be placed upon the same basis as the right to life and liberty. Parents cannot be

allowed to exploit their children to the extent of preventing the realisation of their latent capacities. The well-being of the community can only be secured by the State taking over the function of which it deprives the family, and performing that function in a better way.

Property, which is based on the abstract idea of personality, is essential to the free realisation of the higher life, being the external instrument for the realisation of that life. The actual distribution of property must depend upon the general social arrangements of the community. It may, however, be said generally that no arrangements which make it virtually impossible for a large section of the community to own property can be defended. Admitting the existence of private property, we cannot fairly object to the accumulation of property in the form of capital, which is used for the production of commodities. Inequality of property is in harmony with the common good, and in any case it is hard to see how it can be prevented in any community which allows freedom of competition. The idea of the older Socialists that men should be assigned advantages according to their capacities would be fatal to the development of the higher literary, scientific and philosophical pursuits. At the same time the legislation should be conducted with a view to providing for the possible acquirement of property by everyone; for without property, as Hegel says, a man cannot be a complete man. Hence the State has the right to interfere with anything that prevents a large number of the citizens from acquiring property. It may, indeed, be doubted if the present system of landed property in England does justice to the working class. Land is unlike capital in this respect, that it cannot be possessed by one person without others being deprived of it, whereas capital benefits both its possessor and those who labour under its super-

intendence. The system of landed property which has led to a class of landless men requires some readjustment, and the State ought therefore to exercise some control over rights of property in land.

In contrast to any proposal to limit the rights of contract, the Socialist has but one answer to make. It is vain, he says, to attempt to secure the good of the citizen by any half-hearted regulation of the conditions under which the capitalist State operates. The fault does not lie in defective arrangements, but in the institution of capital and capitalistic labour, and no real advance can be made until the axe is laid to the root of the tree. As the Fabian puts it, "Whatever State control may have meant fifty years ago, it never meant hostility to private property as such. Now, for us, and for as far ahead as we can see, it means this and little else."¹ The advent of Socialism or State-control is held to be inevitable. "Step by step the political power and political organisation of a country have been used for individual ends, until to-day the largest employer of labour is one of the ministers of the Crown (the Postmaster-General), and almost every conceivable trade is, somewhere or other, carried on by parish, municipality, or the National Government itself, without the intervention of any middleman or capitalist. . . . Besides our national relations, and the army, navy, police, and the courts of justice, the community now carries on for itself, in some part or other of these Islands, the post-office, telegraphs, carriage of small commodities, coinage, surveys, the regulation of the currency and note issue, the provisions of weights and measures, the making, sweeping, lighting, and repairing of streets, roads, and bridges, life insurance, the grant of annuities, shipbuilding, stockbroking, banking, farming,

¹ *Fabian Essays*, p. 208.

and money-lending. It provides for thousands of us from birth to burial—midwifery, nursery, education, board and lodging, vaccination, medical attendance, medicine, public worship, amusements, and interment. It furnishes and maintains its own museums, parks, art-galleries, libraries, concert-halls . . . markets, slaughter-houses, fire-engines, lighthouses, pilots, ferries, surf-boats, public baths, wash-houses . . . cow meadows, etc. Besides its direct supersession of private enterprise, the State now registers, inspects, and controls nearly all the industrial functions which it has not yet absorbed.”¹

It does not follow, however, that because State control has been extended, we must endorse the Socialist contention that society inevitably tends towards the complete absorption by the State of all the means of production. No doubt there has been a great expansion of national and municipal ownership, but it is overlooked that, however great this expansion may be, it presupposes the existence of private capital and the perpetual experimentation which is essential to the success of public industry. Take away this basis and the whole proposed system of State-directed industry is essentially changed. Under the present conditions there is a perpetual interchange of influence between the functions of the city and State on the one side and individual enterprise on the other side. The control of certain forms of production, in so far as it succeeds in saving, gives back to the nation an increased amount of capital that is used productively. It is therefore an assumption that cannot be justified that the complete control of all forms of industry may safely be committed to public regulation. Any new departure in this direction must be carefully scrutinised and adopted tentatively until it has shown itself by experience to be successful.

¹ *Fabian Essays*, pp. 47-48.

We have therefore to examine the proposal of Socialism to abolish all private capital on its own merits, abandoning the facile but hazardous rôle of prophecy

The earlier form of Socialism, as represented by Fourier and his school, maintained that the present competitive system does not produce as much wealth as common ownership of capital would do, and wastes what is produced by its false method of distribution. The followers of Saint Simon again argued that the so-called right of private property is simply the asserted right to receive an income that has not been earned. The capitalist and the land-owner take advantage of their monopoly to force the workers to yield to them a large share of the product of their labour. "If the exploitation of man by man no longer bears the brutal aspect which characterised it in antiquity, it is none the less real. The workman is not, like the slave, the direct property of his master; the terms on which he works are fixed by contract; but is this transaction a free one on the part of the workman? It is not, since he is obliged to accept on pain of death, reduced as he is to look for each day's food to the pay of the day before."¹ This anomalous state of things must be done away, and the only way to effect this end, it is said, is for the State to become the owner of all the means of production, while the individual will enjoy a life-interest in the share allotted to him. The assignment of a special task will be determined by State officials, who will train the young in the occupations for which their natural capacities best fit them, and provide the equipment required for their special career.

According to Marx the final explanation of all social changes and political revolutions must be sought in economic conditions, a view which obviously gives a very

¹Quoted in Skelton's *Socialism*, p. 71.

partial and distorted conception of the course of history. The reduction of all conflict to the struggle between the bourgeoisie and the proletariat is based upon a theory of life too simple to account for the facts. More recent Socialists have proposed one of three methods of securing the best results by the State organisation of all production. One proposal is to give to the State the whole charge of all departments of industry under the superintendence of political heads ; another is to separate the political from the industrial State, and to appoint expert commissions to take charge of industrial production ; while a third would commit production to the autonomous administration of trade unions, under their own selected chiefs. The objection to the first method is that it would inevitably lead to the most terrible contests of factions and give enormous opportunities for illicit profits. The second plan, the one put forward by the English Fabians, could only result in the substitution of an irresponsible bureaucracy for the present system of free competition under moderate State regulation. The third proposal, which is to elect higher officials in each industry by the workers directly concerned, would give an opportunity for the rise of sectional interests, and would certainly lead to irreconcilable disputes between the different organisations, with no supreme power to adjust the claims of each.

The general proposal of Socialism of the modern type is to do away with the present form of industrial competition, substituting for it some form of unified control. The various Socialistic organisations in Europe and America all look forward to the collective ownership and operation of the means of production and exchange, and the allotment of reward by authority. How this ideal is to be realised is not made very clear. Perhaps we cannot do better than give the outline of the necessary collectivist

ideal as formulated by Schaeffle, an opponent of the theory, but so impartial that Socialists have admitted his substantial correctness.

The mass of invested capital at the present day, it is said, arises from the returns on capital, and is saved out of the profits of employees. The accumulation of great fortunes is made possible because the wage-earner receives less than the full value of the produce of his labour, so that the surplus falls to the share of the capitalist. The workman is forced to take the wages he can get by the intense competition of his fellow-workmen, the fluctuating condition of social production, the disturbing effect of machinery, changes in technical manufacture, foreign competition, and many other circumstances. To do away with this unjust condition of things there must be a public organisation of labour and public distribution of the national income. The whole national income should be equitably distributed, with the exception of the part reserved by the public overseers as capital and for the maintenance of unproductive public institutions. As large incomes will disappear, the consumption of private luxuries will be enormously lessened, while there will be an increase in public institutions designed for cultivation and the amusement of the people. Socialism does not abolish private property, but only private property in the means of production, that is, capital. It does not do away with the right of inheritance, though no doubt there would be only modest properties to bequeath. Nor is it of necessity hostile to the family or the Church, though such hostility may be, and indeed has been, expressed by individual Socialists.

It is pointed out by Schaeffle that Socialism as thus described is really a form of Individualism, since the control of all production is advocated for the express

purpose of giving each individual his proportionate share in the national income. Nor can it be said that it values man as man, for its conception of humanity is that of an aggregate, not that of an organic unity. In truth the whole ideal is false, for it is not possible to determine the exact value of each man's labour. How are we to decide, for example, how much is due to the creative skill displayed by the great captains of industry? Nor can the value of labour be determined by the amount of time expended. Hence Socialism cannot fulfil its claim of distributing equitably the products of labour. And if, setting aside the ideal of distribution according to the value of the product, the attempt were made to apportion men's share according to their needs, the result would be that in a short time every individual would discover that he was in a great state of need and destitution, while an equal division could only result in indolence and idleness.

Socialists have themselves admitted the difficulty of distributing reward according to the value of the product, and in a kind of desperation have been forced to fall back on the old solution of equal sharing. "The impossibility," says one of the Fabians, "of estimating the separate value of each man's labour with any really valid result, the friction which would be provoked, the inevitable discontent, favouritism and jobbery that would prevail,—all these things will drive the Communal Council into the right path, the equal remuneration of all workers." The proposal is at once impracticable and unjust. It could only result in lessening production and leading, as has been said above, to indolence and slackened effort.

Is it true that under the Socialist scheme the product would be increased? The contention is that the huge share of wealth now annually appropriated by the capitalist would be available for distribution among the workers.

Now, the income of the capitalist is largely reinvested in production, and it is admitted by Kautsky that only greater productivity could lead to improvement in the condition of the workman. This increased production, it is said by Kautsky and Bebel, would result from concentrating work on the largest and most perfect industrial plants and throwing the rest out of service. This tendency indeed is at present at work, and might be accelerated ; but it does not follow that it could be profitably applied to all forms of industry ; and in any case individual initiative would be cramped and social progress retarded.

In contrast to the Administrative Socialism of the Fabian School a recent group of thinkers advocate what is called "Guild Socialism." Distrusting the direct action of government, they would reduce its powers as much as possible, maintaining that central control implies a bureaucracy and a defective electoral machinery. No doubt, it is admitted, the State is the final owner of the means of production, but the control of the use of means should be given to each guild of workers. Both rent and profits should be under the management of the guild, which would have the right to determine wages, hours of labour and prices of products. While each guild would thus control the use of the means of production within its own sphere, a place would still be left for the action of the State, which would no longer interfere with the means of production, but would deal with all that concerns the higher interests—fine arts, education, international relations, justice, public conduct—leaving technical education, however, to the care of the guilds. Thus we would have two sections of society, the first dealing with all that concerns the national income, the second with purely political concerns. The State would be the owner of all the means of production, while the guilds would regulate the use of those means.

paying to the State an annual rent for their charter. From this source the State would derive its finances, not by the present cumbrous and unjust methods. Disputes between guilds would be adjusted, not by the State, but by a conference of guilds.

The proposal to have two separate democracies is obviously impracticable. The State is to deal with international relations, which turn to a great extent upon the conditions under which the economic products of different countries are carried on. It is no solution to say that when disputes between guilds take place, as they inevitably would, or between the conference of guilds and Parliament, these will adjust themselves. This is to hand over the fate of the nation to chance. There must be some responsible body to decide disputes, and there is no other body but that which represents the citizens as a whole. The theory of Guild Socialism is thus an illogical and impracticable compromise between State Socialism and Syndicalism.

Punishment, to pass to another point, according to Kant must be inflicted without any regard to the happiness of the individual or of society and solely with a view to the maintenance of justice. It is, he argues, neither preventive nor educational, but simply retributive. The criminal affirms the law of his desires, and society uses violence in order to cause the irrational act to recoil upon himself. There is in truth, we may reply, no real discrepancy between these three conceptions of punishment. As the object of punishment is to maintain the social unity against the caprice of individuals, punishment is preventive in the sense that by tending to awaken the conscience of the community, it suggests an ideal which is in contrast to the selfish inclinations of individuals. It is also educative, in tending to arouse the consciousness

that crime is worthy of punishment. And it is a vindication of justice, because justice is shown to be the means by which the best life is made possible for men. Punishment is not preventive because it hinders the commission of particular crimes, but because it brings to light the principle which condemns all crime. It is not educational in the sense that it makes men afraid of the penalty connected with the commission of a criminal act, but in the sense that it makes them fear the guilt inseparable from crime. And punishment vindicates justice as a necessary condition of the realisation of the true self. Punishment is therefore a moral agent, not because it acts directly on the will—no external agency can so act—but because it makes the individual realise that the truly reasonable motive for avoiding crime is the nature of man as essentially social.

M. Durkheim has put forward a theory of punishment which is derived from the principle that society and the State rest upon the division of labour. With all its suggestiveness this doctrine can hardly be regarded as adequate. It is only by a metaphorical extension of the meaning of the term that he plausibly accounts for the rights of society on this basis. No doubt it is true that the division of labour does increase as society develops ; but it cannot be admitted that all the complex forces of social life are merely instances of such division. The specialisation of functions which M. Durkheim rightly finds in modern society cannot be reduced to merely economic conditions. There is an enormous increase in the specialisation of the industrial and agricultural conditions of life, but this increase is not to be explained simply as due to the pressure of external circumstances. These conditions are the simpler elements of social life ; and what determines their importance is the change in outlook of society as it develops.

The conditions under which the life of man is carried on differ for different societies, and change as a society realises that there are ever new conditions by which man is enabled to realise himself. Economic conditions have to be considered, but they do not explain all that is meant by patriotism and the love of humanity. A defensive war is not simply for the sake of preserving the favourable conditions of trade and commerce—though these are an element in the calculation—but to defend one's ideal of the best life ; and it would be hard to show that war is limited to the defence of these conditions only ; in reality it is justified only when the very complex conditions of the life believed to be reasonable are at stake ; and it is this that gives the sentiment of nationality its tremendous force and energy. Wars must necessarily discompose all the ordinary conditions of trade and commerce, and can be defended only on the ground that these are less than the higher interests of life, endangered by this or that ambitious nation which regards the evils of war as of less consequence than the ultimate gains expected to accrue from it. Even a conquering State would not enter upon a war of conquest were it not that national honour is believed to be promoted by success. No doubt this success includes better economic conditions ; but these are only part of the whole conception which determines a nation to risk defeat on the chance or the belief in the rectification by its means of the evil economic and other effects of the war itself. Man does not live by bread alone, but by ideals of justice, humanity and generosity, without which he feels that he will lose his own soul. A people in its highest mind will disregard its own selfish interest in view of a higher end. There is such a thing as a national spirit which refuses to consider economic gain when a great object is at stake. It is the expression of the General Will, which we have seen to be the

spirit of a people. Economic considerations, then, are but a part, and by no means the most important part, of the nation's will. As Mr. F. H. Bradley says: "The moral organism is not an animal organism. In the latter the member is not aware of itself as such, while in the former it knows itself, and therefore knows the whole in itself. The narrow external function of a man is not the whole man. He has a life which we cannot see with our eyes, and there is no duty so mean that it is not the realisation of this, and knowable as such. What counts is not the visible outer work so much as the spirit in which it is done. The breadth of my life is not measured by the multitude of my pursuits, nor the space I take up among other men; but by the fulness of the whole life which I know as mine. It is true that less now depends on each of us as this or that man; it is not true that our individuality is therefore lessened, that therefore we have less in us."

According to the theory of M. Durkheim an act is a crime when it offends the strong and collective sentiments of society. This makes crime consist entirely in the sentiments with which it is regarded. The act is a crime because it offends; it does not offend because it is a crime. If a man assaults me in the street and I knock him down, to use Mr. Bosanquet's illustration, there is no force in asking whether I do so in order to cure him of his insolence, or to punish him for having struck me, or to prevent him from hitting me again. The actual fact is that I react against him instinctively because I am offended. And no doubt there is behind my action some positive sentiment or conviction. But this cannot be regarded as a complete account of the nature of punishment. We have still to ask what justification there is for the existence of the sentiment which exists against crime. A thing is not made right by the fact that it is held to be right by a given

number of persons who form the members of an actual society. M. Durkheim himself admits that many things were tabooed at an early stage of human history which are now regarded as perfectly innocent. But if the only defence of law is that it is an embodiment of the collective consciousness, all cases in which that consciousness speaks decidedly will be justified; or if not, there will be no justification for any system of repressive punishment. A thing is not made right because it is in consonance with public sentiment. No doubt law is the expression of the public will, but not because a number of members of society endorse it. What justifies punishment is its harmony with the ultimate end, which is the development of the best life in a single society, and ultimately in humanity as a whole. It is this latent reference to an ideal good life which justifies the common sentiment in favour of punishment. Man is always more or less consciously guided by this principle, and law is a progressive realisation of this ideal of the best life. This enables us to give a relative justification to the sentiment of early society, which endorsed and punished many things that we should neither endorse nor punish. The development is in the greater and clearer appreciation of what is required by the ideal of the best life. A crime, then, is not simply something which offends our sentiments,—though it of course does so offend—it rests upon a distinction between a right and a wrong act. When a law is formulated, it is implied that something is expressed as obligatory which is worth maintaining, and that this is recognised by the common consciousness; but it is a *hysteron proteron* to say that it is a crime merely because it is so regarded, not because there is anything in its intrinsic nature which accounts for the strength and permanence of the reaction against it.

CHAPTER ELEVENTH

INTERNATIONAL RELATIONS IN PEACE AND WAR

So far we have been considering the State in relation to its own citizens, and the relations of these to one another, whether as individuals or as members of subordinate groups. We have now to ask what is the true relation of States to one another. The conception of the State as an institution which has the right to do whatever is conceived to be necessary for the preservation of its own existence, the conception which underlies such theories as those of Treitschke, is one that we cannot accept. It leads to the absolutist doctrine associated with the name of Machiavelli, who tells us that a prudent ruler "neither can nor ought to keep faith when to do so would be to his own disadvantage, and when the motives for which he made his promise are no longer existent." Machiavelli indeed advances this principle of the absence of all principle only when the very existence of the State is at stake. "When the salvation of our country is at stake," he says, "all questions of justice and injustice, of mercy and cruelty, of honour and dishonour, must be set aside; every other consideration must be subordinated to the one of saving her life and preserving her honour." *When* "the salvation of one's country is at stake" must of course be determined by the ruling powers, and will always serve as a plausible reason for the violation of morality and the sanction of fraud,

cruelty and violence. In contrast to this doctrine we must hold that the violation of all the recognised principles of morality, including the practice of fraud, cruelty and violence, is in fundamental disharmony with the idea of the State as an institution whose purpose is to maintain the conditions of the best life for its own citizens. It is assumed that this end can only be attained at the expense of other nations, an assumption which is contrary to the truth. It is true that the first duty of a State is to its own citizens, but it is mere confusion of thought which assumes that this duty is incompatible with the observance of humane rules of action in its dealings with other States. The action of one State is naturally different from that of another, because its climatic, economic and social conditions are different. Each nation has its own problems, which it must solve in its own way, but it cannot solve them by assuming that it is necessarily in antagonism to other nations. As a matter of fact, States have always been in amicable contact, and it is through this contact that each has been able to make an advance in culture and refinement, and in the application of scientific discovery to the improvement of the external conditions of life. The good of one State cannot be separated from the good of another. We must therefore start from the idea of the interdependence of States, in contrast to the Machiavellian view, apparently endorsed by the present rulers of Germany, that one State is necessarily related to another as an enemy. So long as this fallacy rules men's minds wars are inevitable. The interdependence of States is a fact, and to this fact our theory should adjust itself. The real aim of State organisation being to secure the best conditions of life for its citizens in harmony with and limited by the universal principles of morality, we may say that the true relation of States to one another is co-operation, not antagonism.

Thus one nation may learn from others, appropriating what is in harmony with its own life, and in this way gradually working out a more and more perfect form of organised life. This contact with other nations will not destroy the independent life of each, but will result in a progressive differentiation in social institutions which will work towards the better development of humanity.

While each State must therefore conceive of itself as one of the organs by which humanity is making some approach to the best life, no State can surrender its autonomy without ceasing to be a State. What is required is that the rulers should have in view the good of humanity, not that they should allow the conflicting claims of individuals or associations to act in entire independence of State control. For the independence of the State is essential to the good of humanity. The separate action of each State is required, since each has what may be called its special mission, and the better each fulfils its own mission the better it will be for the good of humanity. It is the false notion that the interests of one State are necessarily in antagonism to the interests of the others that leads to wars, and to the ambition of foreign conquest as an end in itself. The increase of armaments in one State cannot but lead to a corresponding increase in the others. The main source of war lies in the defective organisation of a community, which inevitably gives rise to policies of expansion, and the true cure for this state of things is better internal organisation. The free development of the community is prevented by restrictive laws limited to a certain class, since the privileged class naturally seeks to prevent the extension of rights by external expansion, while the suffering class attracts the sympathy of the citizens of other States. Remove these anomalies, and the normal co-operation of States will be allowed free play. Thus it is not the supremacy

of the State which gives rise to conflicts, but a false idea of what is required in the interest of its citizens.

War then is due to imperfect socialisation. It does not follow, however, that it is never justifiable. A State must preserve its autonomy or cease to be a State, thus surrendering its right to defend the liberties of its people. It has been held by a certain small number of the writers on national and international affairs that, unnecessary and futile as it is, war can never be abolished, while there are others who maintain that it can be abolished by a refusal to engage in it. Representatives of the former view hold that, horrible and evil as it is, war is inevitable, or that it should not be abolished because it develops the manly qualities of a nation and springs inevitably from the clash of interests between different nationalities. Now, to maintain that war is essential to the preservation of the higher qualities of a people simply means that those who hold the doctrine have not grasped the real significance of a State. Not to speak of the wanton destruction of man's labours war brings in its train enormous evils. In a state of war, as Hobbes says, "there is no place for industry, because the fruit thereof is uncertain ; and consequently no culture of the earth ; no navigation nor use of the commodities that may be imported by sea ; no commodious build-ings ; no instruments of moving and removing such things as require much force ; no knowledge of the face of the earth ; no account of time ; no society ; and which is worst of all, continual fear and danger of violent death ; and the life of a man, solitary, poor, nasty, brutish and short." The defence of war is that it may be necessary to defend one's country against hostile invasion, to uphold the national honour, and to preserve all the conditions which are essential to a reasonable human life.

A glance at the history of man in Christian times gives

us ground for believing that there has been a steady advance towards the diminution if not the abolition of war. The aim of Rome was to extend her sway over the whole world, and in pursuit of this ideal the Empire in effect reduced all rights to the one right of imperial citizenship. The result of this policy was to prevent war within the boundaries of the Empire. The earlier Fathers of the Church were opposed to war, partly no doubt on account of the pagan rites connected with taking the military oath, but also because of its conflict with the reign of peace. Augustine, however, regarded military service as consistent with the duties of a Christian, and at a later time with the rise of the Mohammedan power there was a change of attitude, resulting in the religious wars of the Crusades. For centuries no power was more aggressive than that of the Church. At the time of the Reformation Erasmus expressed his abhorrence of war in striking terms. "If there be anything in the affairs of mortals," he said, "which it becomes us deliberately to attack, which we ought indeed to shun by every possible means, to avert and to abolish, it is certainly war, than which there is nothing more wicked, more mischievous or more widely destructive in its effects, nothing harder to be rid of, or more horrible and, in a word, more unworthy of a man, not to say of a Christian."¹

With the development of the modern State out of the ruins of the old feudal system private war came to an end and peace was regarded as the normal condition of society. The Reformation laid the foundation of International Law by leading to the recognition of the independence of nations and indeed making such law a necessity. Hence we find Grotius laying down the conditions of a code of universal law. He was the first to interpret the *jus gentium*

¹ Quoted by Miss Campbell Smith in her translation of Kant's *Perpetual Peace*, pp. 18-19.

as not a collection of rules common to various peoples, but as the law *between* nations. "The proposition," says Sir Henry Maine, "that independent communities, however different in size and power, are all equal in the view of the law of nations, has largely contributed to the happiness of mankind." States must recognise one another as members of a society of States. There must therefore be laws binding nations even in war

Towards the end of the seventeenth century William Penn suggested an international tribunal in the interests of peace, and by the Abbé St. Pierre the problem of perpetual peace was introduced into political literature. It is, however, only with Kant that we have a complete and reasoned statement of the conditions under which a perpetual peace may in course of time be secured.

As to international relations, Kant holds that there are certain preliminary articles which if adopted would prepare the way for a lasting peace. The first of these is that no treaty of peace shall be made with a secret reservation of causes of quarrel which might furnish material for another war. Anything else would be a mere truce and not a true peace. A second condition is that no State, great or small, shall be acquired by another through inheritance, exchange, purchase, or donation. A State is a society of human beings, not a patrimony. Not less important is it that standing armies should be gradually abolished, since they lead to a perpetual rivalry of other States, which have no guarantee of security so long as they exist, and their expense leads to wars of aggression, undertaken in order to get rid of the burden of debt incurred in keeping them up. Another essential condition of peace is that no State shall countenance such means of injuring the enemy as must make mutual confidence impossible when peace is restored. Treachery, espionage and other dis-

honourable stratagems tend to lead to wars of extermination. These articles, however, are but preparatory. The condition of lasting peace requires, firstly, that the civil constitution of each State should be republican, that is, based upon the freedom and equality of the citizens. There is no guarantee of perpetual peace until the power of declaring war is in the hands of the people. The law of nations must thus be based upon a federation of free nations. No doubt even this will not make a complete end of war, but with it we must be satisfied until the world is prepared for a World-Republic. A League of Nations is all that we can at present have, and in such a League there must be a provision for securing the rights of each citizen of the contracting States as a "citizen of the world," that is, the right to visit and trade freely with countries other than his own.

In two ways an attempt has been made within the last hundred years to substitute international agreement in prevention of international disputes, namely, by Treaties and by Conferences and Congresses. The weakness of Treaties is that it is difficult to obtain guarantees that the terms of the Treaty will be carried out, and not easy to devise an effective method for varying and modifying the provisions. Mill proposed a time limit, and this method has been on the whole successful in the case of commercial Treaties; but where large political and administrative relations are involved, it has its disadvantages. The Treaty entered into at Chaumont in 1814 by the four great powers—Britain, Russia, Prussia and Austria—was to last for twenty years, but it came to nothing. At the first conference in September, 1818, it was proposed to guarantee the maintenance of the governments then established in Europe, but Great Britain refused to pledge herself to suppress all efforts that threatened the established

order, and no advance was made towards the organisation of a Government for Europe. "The idea of a solidary alliance," said Castlereagh," by which each State shall be bound to support the state of succession, government and possession within all other States from violence and attack . . . must be understood as morally implying the previous establishment of such a system of general government as may secure and enforce upon all kings and nations an internal system of peace and justice. Till a mode of constructing such a system shall be devised the consequence is inadmissible as nothing would be more immoral or prejudicial to the character of governments generally than the idea that their force was collectively to be prostituted to the support of established power without any consideration of the extent to which it was abused." This has been the policy of Great Britain in similar cases ; she has always protested against intervention in the internal affairs of independent nations.

The body of rules and usages which now prevail among civilised nations had no existence before the end of the Middle Ages. There was no International Law in our sense of the term, but only partial custom. The Church was not able to prevent Christian rulers from making war upon each other, and even the Pope was himself, as a temporal Prince, often a belligerent. Grotius finds the basis of International Law in the law of nature, the precepts of revealed religion, and custom ; and within half a century his treatise was received as authoritative. He has nothing to say about the duties or rights of neutral States as against belligerents, but with this exception he has laid the foundation of International Law. To the objection that he could not create law since he was not a legislator, Sir Henry Maine properly replies that "the founders of International Law, though they did not create a sanction,

created a law-abiding sentiment. They diffused among sovereigns, and the literate classes in communities, a strong repugnance to the neglect or breach of certain rules regulating the relations and actions of States. They did this not by threatening punishments, but by the alternative and older method, long known in Europe and Asia, of creating a strong approval of a certain body of rules."

There are three sources of International Law · the authority of writers, the recognition and declaration in Treaties and other diplomatic acts, and the embodiment of general opinion in the usage of nations. The first authority gets credence according to the reputation of the writer, as correctly representing the views of civilised governments. Authority based upon Treaties must be accepted with caution, since an agreement between two or more powers may not be regarded as of universal application even by themselves, much less as binding upon those who have been no party to the Treaty. It is otherwise when the Treaty is the result of a Congress or Conference of a number of the greater States for the determination of matters of permanent interest. And naturally the agreement of a number of these powers has very great weight even among States whose consent has not been given. The United States in the War with Spain, though it had refused to accept the Declaration of Paris of 1856, decided to adhere to the rules there laid down, and these were observed by both belligerents. But the most important of International rules is that afforded by actual usage, which indicates that the law is based upon deliberate consent. Moreover, those rules which are generally accepted by independent States may fairly be regarded as convenient and just. No doubt there is always a body of opinion in advance of the popular conscience, which will have at

least the effect of keeping usage up to the mark of average opinion, if not beyond it.

There are controversies between nations in regard to boundaries and territorial rights, in regard to alleged breaches of non-performance of active obligations arising out of the interpretation of treaties, claims of its subjects for compensation, and contests for supremacy or predominant influence. The last are the most dangerous of all, for the powers concerned are usually less willing to invite or tolerate interference in proportion as their cause is weak.

There are two methods of international arbitration: either the matter in dispute may be referred to a judge or judges of their own choice, or the States concerned may prefer to use the machinery provided by a general international agreement of more general scope. The important arbitrations of Great Britain have all been conducted on the first method.

The most important advance in making permanent provisions for international arbitration was made by the Peace Conference at the Hague. The original proposal to consider the possible reduction of armaments was not found practicable. So far the only Power which has made any definite overture in this direction is Great Britain. Sir Frederick Pollock is of opinion that, "as time goes on, it will be less and less reputable among civilised States to talk of going to war without having exhausted the resources of the Hague Convention; and the necessity of any formal national declaration in that behalf may be avoided altogether if the tribunal acquires by custom, as one hopes it will, a stronger authority than any express form of words would confer." Whatever advance may be made by the widening of national feeling beyond the confines of a particular State—and it is to be hoped that

this civilising process will go on increasing—in the meantime we must sympathise with those who have made proposals for the settlement of disputes between national groups of varying size and power, in such a way as to preserve the peace between them. It is on this basis that the American “League to Enforce Peace” rests. The programme of the League is as follows :

“First : All judicial questions arising between the signatory Powers, not settled by negotiation, shall, subject to the limitations of Treaties, be submitted to a judicial tribunal for hearing and judging both upon the merits and upon any issue as to its jurisdiction of the question.

“Second : All other questions arising between the signatories and not settled by negotiation, shall be submitted to a council of conciliation for hearing, consideration, and recommendation.

“Third : The signatory Powers shall jointly use forthwith both their economic and military forces against any one of their number that goes to war, or commits acts of hostility against another of the signatories before any question arising shall be submitted, as provided in the foregoing.”

According to these proposals the task of settling disputes is still to be left to diplomacy. The suggested council of conciliation is in effect a device for bringing collective diplomacy to bear on questions of dispute. According to the Third Article the signatories must submit their cases to the council of conciliation, but there is no obligation other than moral upon them to accept the decisions arrived at. Moreover, it is implied that any State has the right to secede from the Union. Thus the League would not constitute a true Federal Union, but would at most be a somewhat more elaborately organised Concert or Alliance of Sovereign Powers.

According to the "League of Nations Society" there is an obligation on the signatory powers not only to submit all justiciable disputes to the Hague Court of Arbitration or some other judicial tribunal, but also to accept its decisions as final and to carry into effect these decisions. Apparently the obligation to submit justiciable disputes to arbitration is to be enforced, and the collective power of the League is to be brought to bear to enforce the decisions of the Arbitral Tribunal. But enforcement of the recommendations of the council of conciliation does not seem to be contemplated. It is the view of Sir Frederick Pollock that there must be an International Executive and a standing International Police. These, he says, are essential "if a League to enforce Peace is to be in a position to exercise timely and effective force at need and to nip offences in the bud."

It has been asked why the process of "nipping offences in the bud" should be less dangerous now than it was a hundred years ago under the provisions of the Holy Alliance. May it not be answered with some degree of force that things have somewhat changed since Alexander First put forward his scheme of peace? For one thing Wellington and Castlereagh had no faith in the scheme, and indeed distrusted all schemes for the peace of the world. The Czar's plan naturally failed when Europe came to be guided by statesmen like Bismarck, Metternich and Cavour, who had no belief in the obligation of a State to observe the principles of morality, while idealism such as that of the Czar seemed to them but the dreams of an unpractical mystic,—a "loud-sounding nothing," as Metternich called it. But a change has come over men's minds since those days. Statesmen like Mr. Asquith and Viscount Grey agree with President Wilson that some form of a League of Nations is feasible and urgently called

for, and therefore an appeal to the past by no means settles the question. One may rather hope that the words with which Mr. Alison Philips ends his *Handbook of Modern Europe* may not be merely idle phrases. The nations of Europe, he says, may "in spite of countless jealousies and misunderstandings, grow in time to realise their unity in all that constitutes a nation ; in their common origin, their common traditions, their common interests." "There are plenty of difficulties in the way of an International League, but it seems no less obvious that they are of a kind that can be overcome if there is a general will to overcome them ; and if there is not such a general will, there cannot be any league at all." That such a will is slowly growing may be confidently affirmed, and there is good hope that after the present war has come to an end, and the futility of it all is burned into men's hearts and minds, they will be ready to listen to proposals of the kind referred to.

Meantime we must not underestimate the difficulties of a Federation of States. We are told that the great obstacle to such a Federation arises from the intense self-consciousness which superinduces antagonism to other nations, an antagonism inevitably arising from separate traditions, customs and habits of life, and by jealously guarded economic interests. The first step towards an International Authority, Mr. Bertrand Russell tells us, is that people should get rid of their narrow loyalty to their own nation and think, not of their own selfish national interest, but of abstract justice and the good of humanity. This doctrine obviously implies, it is said, that there must be an effective supremacy over the will of all the national groups or other groups within the world league. The stability and permanence of the Federation demands that the interests of the constituent groups should be

subordinated in all matters affecting the common weal to those of the whole.

Now, it is certainly true that the proposed Federation or League would lead to a very decided transformation of that form of loyalty to one's country which is embalmed in the phrase, "my country right or wrong"; but it is fair to ask whether this form of patriotism is worthy of a reasonable being. Every Treaty into which a nation enters is in a sense an abandonment of its independence, but it will not be contended that for that reason no Treaty ought to be made by a self-respecting nation. The very foundation of a Treaty is the belief that it will secure the higher good of the nations who enter into it, a belief which in most cases at least is fully justified. Why then should it be assumed that a Federation of Nations involves any abandonment of the autonomy of the contracting powers? It may be said that the proposed League differs from a Treaty in one important respect, that it is meant to be permanent, whereas a Treaty is for a limited time and for a limited purpose. But the proposals of the associations who advance the scheme of a League of Nations do not involve the abandonment of the autonomy of the several nations who enter into it. Each nation still retains full control of its internal affairs—except, of course, so long as agreements of an economic nature for the mutual benefit of its own citizens as well as the benefit of the citizens of other nations are in force—and, as the main object of the League is to prevent the devastating effects of war, the result must be a fuller control of these affairs. That such a Federation would result in economic progress there can be no possible doubt, for one of the most pernicious economic fallacies is the idea that the gain of one nation is necessarily the loss of another. One of the advantages of a Federation of Nations would be an elevation of the idea of the true

purpose of a nation. No longer would the mutual jealousy and distrust of one people lead to friction and sometimes to indefensible wars. Each nation, seeking as its main object the development of the common good, would approach every question, not in the attitude of one seeking to gain greater advantage for itself, but with the object of determining what was the greatest good of itself and others. That this greater good must be antagonistic to the welfare of each nation is based upon an unreasoning prejudice and a false economic theory. We do not assume that the individual member of any State can only secure his own good at the expense of his neighbour ; why, then, should it be taken for granted that a nation stands to another in the position of the hypothetical "state of nature" ? Each nation has its own special task, but this task is perfectly compatible with the exercise of even-handed justice to other nations. It thus seems to me that the proposed Federation has nothing to fear either from those who would counsel us to get rid of all feelings of loyalty to a single nation and think only of humanity, nor from those who oppose it on the ground that it would destroy that loyalty which is the spring of all progress. The feeling of loyalty must be sublimated into a form of patriotism which combines the most intense love of country with the desire to do justice to other nations. There are tasks enough for men to do without wasting their emotions on evil feelings against the citizens of a foreign nation, and really vigorous life is not to be expected from those whose devotion to humanity makes them indifferent to the immediate problems of their own country. The union of love of country with devotion to the cause of humanity is the true ideal, and neither a selfish patriotism nor a vague humanitarianism that leads to nothing but neglect of the duty that lies nearest.

Apart from war there is sufficient work for every State to do in developing the conditions which lead to the best life. As Green says :¹ " Those who from time to time talk of the need of a great war to bring unselfish impulses into play give us reason to suspect that they are too selfish themselves to recognise the unselfish activity that is going on all around them. Till all the methods have been exhausted by which nature can be brought into the service of man, till society is so organised that everyone's capacities have free scope for their development, there is no need to resort to war for a field in which patriotism may display itself. . . . Just so far as States are thoroughly formed, the diversion of patriotism into the military channel tends to come to an end. Patriotism, in that military sense in which it is distinguished from public spirit, is not the temper of the citizen dealing with fellow citizens, or with men who are themselves citizens of their several States, but that of the follower of the feudal chief, or the member of a privileged class conscious of power, resting ultimately on force, over an inferior population, or of a nation holding empire over other nations." It is therefore in the interest of this noble ideal of patriotism that a League of Nations is proposed for the prevention of war. No war can arise without wrong, intentional or unintentional, on the part of one or other of the combatants, or both, and the remedy is not to be found in the surrender of a nation's rights to self-government, but in cleansing its own household, and so concentrating attention upon justice. Properly understood the mission of one nation cannot be incompatible with the mission of another. Germany is not wrong in claiming that it is her duty to spread her civilisation abroad ; the mistake is in supposing that civilisation can be imposed by force, and that other

¹ *Principles of Political Obligation*, s. 172 ; *Works*, ii. p. 482.

nations have nothing to contribute to the progress of humanity. "A healthy State," as Mr. Bosanquet says, "is not militant." States are normally co-operative, not antagonistic, and a League of Nations must be based upon this fundamental truth.

Mr. A. C. Bradley has suggested certain possible dangers in the proposal to form a Federation of Nations. One difficulty would be, he thinks, that if all the States had equal voices, there would be a preponderance of the influence of the smaller States, to which the greater States could not be expected to submit ; while, on the other hand, if not, the disputes would be practically determined by the greater States, to the disadvantage of the smaller. It may perhaps be answered that some arrangement, such as that which prevails in the United States, might be made by which this danger would be avoided. The sovereign equality of each of these States is preserved by their equal representation in the Senate, the balance being redressed by the fact that both the Supreme Executive Authority, the President, and the members of the House of Representatives, are elected by the people. No doubt there would be a difficulty in adapting this system to the Federation proposed, but some such method of checks and balance might surely be devised.

Another difficulty mentioned by Mr Bradley is that when a decree unfavourable to a powerful State was felt to touch deeply its honour or interests, there would be a danger of its trying to elude the requirements laid on it, and an equal danger that other States would shut their eyes to this attempt rather than enforce the decree at the cost of all the evils of war. This objection is properly enough based upon the imperfection which attaches to the State as to all human organisations, but it does not seem to be a fundamental objection to the proposed scheme.

We must hope that the just claims of each State will not be overlooked by the League, and that mutual goodwill would in general lead to the avoidance of this danger, which after all is not incompatible with the main principle of the League.

Certain general suggestions are made by Sir John Macdonnell¹ which are worthy of careful consideration by anyone who seriously believes that wars may by proper regulations be avoided. The first and most obvious condition is that enormous armies must cease to exist. So long as peace is a preparation for war, each nation will be compelled to prepare for the next war. If one State is in possession of an army or a fleet dangerous to others, they must maintain a proportionate force. There must therefore be effective measures for disarmament, including the abolition or control of establishments for the production of war material. No doubt there will be great difficulty in determining the basis on which disarmament is to be carried out, but a good scheme is not beyond the powers of those who will look at the matter from a high and enlightened point of view. We must trust to the gradual growth of ideals of disinterestedness in affairs of State, such as are now fairly prevalent in the relations of citizens to one another. There are signs of the development of such ideals. They form the central idea of such documents as President Wilson's addresses, and of the memorandum descriptive of the Labour Conference. These give evidence of an advance to new ideals, of a break with narrow aggressive nationalism, and of aspirations for something above it. It may indeed be doubted whether Mr. Dawson's suggestion of an Inter-State Parliament is practicable. He suggests "that the legislative assembly might be provided by superseding the periodical *ad hoc* congresses of

¹ *Contemporary Review* for May, 1918.

the European and other States, called for special purposes, by a standing Congress, for all purposes. Such a Congress of States as the Parliament of the Nation should meet at regular intervals. The Congress of States would be composed of the Parliaments of all the nations represented, elected by their members upon a proportional representative principle, with a view to giving a voice to important minorities." If this is a doubtful proposal, much more doubtful is the proposal to institute a world-parliament, a proposal which hardly seems compatible with a multitude of inferior national bodies. May there not, however, be some international body to deal with the growing interests of nations? A Conference such as that which met at the Hague in 1899 and 1907 would not serve the purpose. It could do no more than conclude Treaties which might not be ratified. Sir John Macdonnell suggests as a beginning in international organisation, that each legislature should have a Foreign Affairs Committee free to enter into relations with other similar committees, cognisant of all negotiations, and claiming the right to be heard upon them, and to obtain full information. If a League of Nations is established, it is plain that there must be some body which represents the common interests of its members, and it must discuss matters openly. It is almost universally admitted that there should be a court to determine disputes of a legal nature between nations. This body should be composed of jurists, and also of conciliators, the latter men of wide reputation, to whom States could with confidence commit the settlement of issues of the first importance. If something of the nature of an international legislature and judiciary is feasible, there should be no difficulty in providing an international Executive. That there are already the rudiments of such an Executive has been shown by Mr. Woolf and others, and these

international institutions will doubtless grow as occasion requires.

These practical suggestions are worthy of the serious consideration of all who are interested in the prevention of war and in the promotion of peace on earth and goodwill to men. But no amount of machinery will be of much avail without the growth in the peoples of different nationalities of a new conception of loyalty, a wider outlook and a real desire to promote the good of mankind. This spirit, I feel sure, is not to be generated by any vague and misleading talk about the Community as wider than the State, or any belittling of the State's supremacy. A successful League must be a League of Nations, fulfilling and not superseding the principle of a people's self-government. The notion of what is called a Balance of Power has proved its inefficiency in preserving the conditions of good life among the nations. As Mr. Asquith has said: "Such a state of international relationship without any solid foundation, ethical or political, was bound to stimulate naval and military activity. No one felt secure." Unless we are able to substitute a League of Nations for the discredited principle of a Balance of Power, there is little hope of a permanent method of securing peace. So long as each nation regards its own interests as incompatible with the good of humanity, there must be a continual danger of the Balance being upset by some one or more ambitious powers. If there is a clear conviction of the essentially anarchic character of the whole system, there is some hope of a remedy. No doubt it will be difficult to diffuse this idea so as to make it a guiding principle of action, but unless there is a gradual infiltration of the idea it is vain to look for an end of war. There must be, as President Wilson has said, a "destruction of every arbitrary power anywhere that can separately, secretly, and of its single choice disturb

the peace of the world; or if it cannot be presently destroyed, at the least its reduction to virtual impotence." Hence, as he argues, we must have "the establishment of an organisation of peace which shall make it certain that the combined power of free nations will check every invasion of right and serve to make peace and justice the more secure by affording a definite tribunal of opinion to which all must submit and by which every international readjustment that cannot be amicably agreed upon by the people directly concerned shall be sanctioned." In a word, what is sought is "the reign of law, based upon the consent of the governed and sustained by the organised opinion of mankind." As he has explained, there must be no "entangling alliances."

Now if we are to put an end to such alliances it is obvious that in the League must be included all the great Powers of the world; otherwise the principle of a Balance of Power will not have been got rid of. If the Central Powers of Europe are left out, we must look for a continual attempt to upset the League by drawing to their side all the dissatisfied Powers, an attempt by no means certain of failure; and thus we should have all the old conditions back again. Assuming a favourable issue of this war, there seems to be good hope that Germany would be willing to enter the League. During his tenure of office Chancellor Bethman-Hollweg expressed himself as favourable to the project; it would certainly be supported by the Socialists, the Radicals and the Catholic "centre," and, as Mr. Brailsford says, "an impoverished Germany would welcome relief from the burden of armaments." Germany might no doubt object that the League is based upon the one-sided principle of the naval supremacy of Great Britain. The answer to this seems to be that there might be some force in the objection before the formation of the League,

but that this difficulty disappears with the inclusion in it of the United States. If in case of dispute Britain refused to go before the Council of Conciliation, or refused to accept its decision, it is inconceivable that she should be backed up by the United States. The supposition, in fact, is utterly improbable, firstly, because England has never shown an indisposition to submit her case to fair arbitration ; and secondly, because she would naturally defer to the strongly expressed opinion of the United States, and would be very unlikely to endanger her long peace with so friendly a power.

The absolute necessity of including Germany among the Powers subscribing to the League is convincingly stated by Viscount Grey, who points out that a satisfactory League of Nations must rest upon moral ideas. Two conditions are essential, if such a League is to be effective. In the first place, " the idea must be adopted with earnestness and conviction by the executive heads of states. It must become an essential part of their practical policy, one of their chief reasons for being or continuing to be responsible for the policy of their states. They must not adopt it only to render such service to the persons whom it is convenient to please or ungracious to displease. They must lead, and not follow. They must compel, if necessary, and not be compelled." This condition is actually fulfilled as regards the executive head of the United States, and will be accepted by the Entente Governments, while Austria has shown a disposition to accept the proposal. The difficulty will lie with Germany, so long at least as it is ruled by a military caste. Until the German people renounce their belief in force, there can be no League of Nations in the sense intended by President Wilson. " A League such as he desires must include Germany and should include no nation that is not thoroughly convinced of the advantage and necessity of such a League, and is,

therefore, not prepared to make the efforts, and, if need be, the sacrifices necessary to maintain it." The second condition is that the German Government, and not merely the States that are willing to favour it, must understand that some limitations upon the national action of each are implied. Force must be brought to bear upon States that refuse to settle their disputes by arbitration. "The obligation is that if any nation will not observe this limitation upon its national action; if it breaks the agreement which is the basis of the League, rejects all peaceful methods of settlement and resorts to force, the other nations must one and all use their combined force against it. The economic pressure would in itself be very powerful, and the action of some of the smaller States composing the League would perhaps not go beyond economic pressure, but those States that have power must be ready to use all the force—economic, military or naval—that they possess." Viscount Grey is hopeful that the other Entente nations will respond to President Wilson's ideal, but he is not so certain of Germany. "The only conclusion is that the United States and the Allies cannot save the world from militarism unless Germany learns the lesson thoroughly and completely, and they will not save the world, or even themselves, by a complete victory over Germany until they too have learned and can apply the lesson that militarism has become the deadly enemy of mankind."

If we are to have a world at peace we must be prepared to make what concessions are necessary to realise it. A Commonwealth of Free Nations, in Lord Milner's phrase, is the alternative to the Prussian ideal of a single Empire with all other peoples its subservient tools. Unless this is secured we shall have to face a vast increase of even more deadly and costly armaments than have been weighing us down in the present war.

A satisfactory League of Nations is impossible if the threat of a boycott of the Central Powers should be carried into effect. Such a proposal amounts to a determination to perpetuate the old feud upon which the theory of the Balance of Power rested, and would therefore be in disharmony with the declared intention of the League. Neither revenge for the barbarous manner in which Germany has conducted the war, nor an eye to the commercial interests of England, even if that could be admitted, will justify us in proposing a League of Peace on the one hand, and seeking to destroy the legitimate trade and commerce of Germany on the other. This idea once taken up by the German people would ruin any hope of a successful result. To propose a trade war after peace is to confirm the partisans of Germany in their contention that the policy of England has always been dictated by her commercial interests. Thus the real motive with which we entered the war will be misunderstood or distorted, and the vision of a League of Peace will be wrecked. The military dominion and the racial pride of Germany will be confirmed, and the better elements will be discouraged and powerless. It is no defence to say that the boycott is only temporary. Even granting that this were true, it would not meet the difficulty that we are making it certain that Germany will have nothing to do with a League of Peace which is to ruin, and intended to ruin, her trade. No better method could be devised for perpetuating militarism. Germany, excluded from a League with which she cannot be expected to sympathise, will certainly as soon as she is able renew her armaments, rebuild her ships, and prepare for the next war.

Whether the theory of a League of Nations can be brought into practical operation or not, there is no doubt that in

the British Empire we have a form of political relationship which has proved to be a decided success. It may be said to be the only thoroughly successful experiment in international government that the world has ever seen. The Roman Empire was a form of polity in which the peoples subject to it were indeed allowed considerable freedom of local government, but they were not permitted to have any share in the larger concerns of the State ; and while they were as a rule contented and successful in their daily life, the bond which connected them with the central government was mainly in the form of taxation for the empire, which dictated a policy over which they had no control. The foreign cities under the sway of Rome became municipal towns of the empire and were governed by a Roman magistrate, though a certain amount of local self-government was allowed. The central figure in the system of government was the emperor, who had absolute control of all the fighting forces, and possessed the power of declaring peace and war. Although theoretically he could be deposed by the people acting through the Senate, as a matter of fact he could only be deposed by the army. Being invested with the " powers of the tribunes," he could veto any measure he chose, and in this way he was practically autocratic. Naturally therefore his wishes were found out beforehand, and a subservient Senate acted accordingly. The emperor also was invariably appointed Pontifex Maximus, and thus he became the guardian of the religious interests of the people. Nominally all the citizens shared in the government of the State, but as a matter of fact the power of the emperor was absolute and unrestricted. The people neither elected nor legislated, and even the Senate, which was nominally credited with making laws, was only allowed to pass those resolutions which were agreeable to the Emperor. The Romans did not attempt to govern the

subject provinces on any rigid and uniform plan, but were satisfied if the Roman rule was duly recognised, and the taxes paid. When a province was conquered, its territory became technically the property of Rome, and part of it was so kept, including the mines of gold, silver, lead, iron and salt, or quarries of marble, granite and gravel. Some portion of it might be assigned to veteran soldiers as colonists. These retained their rights as citizens, and as the native population came in from the surrounding district they also easily acquired similar privileges. The remainder of the territory was usually given back to the original inhabitants, on condition that they paid rent for it in money or in kind. The land tax, together with the personal tax, was the chief source of the revenues of Rome, though a great part of it was spent in the administration of the provinces.

In marked contrast to this government from above stands the British Empire, so far at least as the self-governing colonies are concerned. The form of government is founded on principles which appeal to the highest political ideals. No doubt there is still a nominal degree of centralisation, but the tendency is to recognise the status of the Dominions as equal nations within the Empire. As General Smuts says: "To a very large extent we are a group of nations spread over the whole world, speaking different languages, belonging to different races, with entirely different economic circumstances, and I think that to run even the common concerns of that group of nations by means of a central Parliament and a central Executive would be absolutely to court disaster." On this last point there may be a difference of opinion, but there can be none in regard to the remarkable success achieved by the Empire in combining the freedom of the separate organs with the unity of the whole. Here then we have a type of Confederation,

based upon common sentiment and common ideals, which has proved its sanity by its successful operation. There is within the Empire the greatest possible freedom of initiative, and in proportion as this freedom has been developed the loyalty to Great Britain has increased and intensified, as the action of Canada, Australia and New Zealand in the present war has amply demonstrated. The self-governing colonies lead their own individual life, absolutely undisturbed by the dictation of the mother country, and even make their own fiscal arrangements in a way that they believe to be for their own good. This group of groups has thus shown by a brilliant example what may be effected when the outlook is that of free men, attached by the bond of common descent and common or at least similar institutions, and all performing their part in furthering the success of the whole. We have in this modern State an almost perfect example of that unity in diversity which we have already seen to be necessary in a single nation. The common will is the hidden spring of this community of nations, a will which is manifested in each and yet is necessary to the harmony of the whole. Here we have the real general will present in its degree in every one of the co-operating groups. Here sovereignty in the true sense is realised ; for sovereignty, as we have seen, is not limited to any person or body of persons, but consists in the practical operation of the system of institutions as a whole. The great experiment of the British Empire also shows that the State may take any form which is consistent with its central principle of democratic self-government. The important thing is that there should exist a genuine intention to make the institutions express the best will of the people. For it is through a complex system of institutions that freedom finds expression. These may be more or less independent, and the example of the

Judiciary shows that for certain functions a very high degree of independence is desirable. But while making all due allowance for the independence of all the organisms by which the general will is realised, we must still maintain that that will demands some form of central government as the outward expression of the mind and will of the people.

It is no light task which Imperial England is called upon to face—nothing less than that of developing the industrial, moral and political ideals of some four or five million souls of every race and religion, and at every stage of civilisation. It may be laid down as a fundamental principle that the only justification for the rule of a superior over an inferior people is that the former should regard as its special task the elevation of the latter to its own level. Unless the civilised people acts from this principle, its rule can only be regarded as an unjustifiable tyranny. As Lord Morley has said : “ A superior race is bound to observe the highest current morality of the time in its dealings with the subject races.” It must be admitted that the first contact of the civilised trader with the savage races has often led to the most deplorable results ; the natives have been robbed, corrupted by opium, murdered in cold blood, and sold as slaves. It is this fact, combined with the fanaticism and barbarism of the native race, which has usually forced the civilised power to assume the guardianship of the lower race. In the case of a people who have themselves made some advance in civilisation, but have not been able to maintain a civilised government when they came in contact with the modern world, there arises a problem essentially of the same character. The most obvious instance is that of India. In the middle of the eighteenth century India was fast approaching a state of anarchy, and it became evident that if the people were to be protected from their oppressors, native and foreign, the control of the

country must be undertaken by a strong and sympathetic government. It was with great reluctance that English statesmen came to this conclusion, a conclusion which could not be avoided in the interests of humanity and justice. The rule of a foreign and subject people is a difficult and delicate task. The better elements in the older civilisation must be recognised and fostered. To destroy a people's faith in their traditional customs and laws can only lead to the overthrow of all moral rules and the introduction of moral anarchy. A whole foreign civilisation cannot be externally imposed upon a people. The foreign government must act so as to create a feeling of loyalty to itself in the minds of the subjects, while these must learn to look to it for security of person and property, for freedom of thought and speech, and for the defence of their special form of worship. There is no justification for the rule of a foreign government which does not seek to promote civilisation, liberty and progress in the subject people, and does not take the necessary steps to fit them for self-government.

The first task to which Britain set herself in India was to maintain peace, order and justice, so that the farmer might reap what he had sown, and the trader follow his occupation under proper restraints. Then it was seen that the Indian people must be taught the learning and methods of the West. Material civilisation has been placed upon a solid footing, and schools and colleges established everywhere. It is indeed open to question whether the industrial development of India might not have been more wisely managed, but at least there has been no lack of goodwill on the part of the government. The growing demand for a greater amount of self-government must be regarded as a healthy sign, especially when it is combined with a recognition of the advantages of British rule. Whether the people are

ready for self-government or not is a difficult question ; but it may be pointed out that the dominance of the real will of a people is not ensured simply by introducing the machinery of democracy. It is impossible to have a true representative system where the great bulk of the people are totally illiterate. The question is one to be settled by careful and experimental statesmanship. In India the religious antagonism of Mohammedan and Hindu, the segregation of women in the harem, and the barriers of caste, prevent that frank communication with one another, and that strong sense of national unity, which are essential in a self-governing people. That these barriers are gradually breaking down there are not wanting significant signs, but until there is clear evidence that at least a fair measure of progress has been made in this direction, it would be hazardous to commit their fate to themselves. We must remember that the government has the responsibility of guiding a dependency, not merely in its own interest, but in the interest of mankind, and that its rule can be just only by its success in gradually raising the people to the level at which they can govern themselves.

There is a passage in Green's *Principles of Political Obligation* which, though not written with direct reference to the rule of an inferior people, may be interpreted as the view he would in all probability have taken had he dealt with the question. "That active interest in the service of the State," says Green, "which makes patriotism in the best sense, can hardly arise while the individual's relation to the State is that of a passive recipient of protection in the exercise of his rights of person and property. While this is the case, he will give the State no thanks for the protection, which he will come to take as a matter of course, and will only be conscious of it when it descends upon him with some unusual demand for service or payment,

and then he will be conscious of it in the way of resentment. If he is to have a higher feeling of political duty, he must take part in the work of the State. He must have a share, direct or indirect, by himself acting as a member, or by voting for the members of supreme or provincial assemblies in making and maintaining the laws which he obeys." ¹

So long as the conditions which give rise to wars continue to exist, regulations intended to lessen its barbarity are of great importance. In the ancient City-State war was in many ways ruthless enough, but there were certain recognised sanctities the violation of which was regarded as impious.² One of these was the necessity of attending to a proper burial of those vanquished in battle, a striking instance of which is shown in the trial and condemnation to death of the admirals who after the victory of Arginusæ failed to rescue the seamen from the twenty-five ships sunk in the fight, or to recover the bodies of the dead. Sacred buildings were respected, and intense feeling was aroused by the destruction of Greek temples by the Persians. Heraldry were inviolable, and the lives of women and children were spared.

In Greek writers of the great age we find the expression of a humane feeling which anticipates the sympathy and compassion naturally associated with Christian civilisation. "*The Troades of Euripides*," says Professor Gilbert Murray, "is perhaps in European literature the first expression of a spirit of pity for mankind exalted into a moving principle ; a principle which has made the most precious and perhaps the most destructive, elements of innumerable rebellions, revolutions, and martyrdoms, and of at least two great religions."

¹ *Principles of Political Obligation*, s. 122. *Works*, ii. p. 436

² See an article by Mr. H. R. James in the *Edin. Rev.* for January, 1918.

Plato hardly reached the level of "Euripides the human," but he like Aristotle denounces the enslavement of Hellenes and the devastation of Hellenic territory, on the ground of their common ties of blood and friendship. He has no sympathy with the doctrine that war is not only inevitable but a great school of the manly virtues. "War," he says, "whether external or civil is not the best, and the need of either is to be deprecated ; but peace with one another and good will are the best ; nor is the victory of the State over itself to be regarded as a really good thing, but as a necessity ; a man might as well say that a body is in the best state when sick and purged with medicine, forgetting that there is a state of the body which needs no purge. And in like manner no one can be a true statesman, whether he aims at the happiness of the individual or the State, who looks only, or first of all, to external warfare, nor will he ever be a sound legislator who orders peace for the sake of war, and not war for the sake of peace." ¹

"War," says Aristotle, "has its end in peace. The object of military training should be not to enslave persons who do not deserve slavery, but firstly, to secure ourselves against becoming the slaves of others ; secondly, to seek imperial power, not with a view to a universal despotic authority, but for the benefit of the subjects whom we rule ; and thirdly, to exercise despotic power over those who are deserving to be slaves. That the legislator should rather make it his object so to order his legislation upon military and other matters as to promote leisure and peace is a theory borne out by the facts of history." ² It is not worthy of a statesman to devise the means of rule and mastery over neighbouring peoples whether with or against their own will.

There is also a striking passage in Polybius in regard

¹ *Lazus*, i. 628.

² *Politics*, bk. iv. ch. xiv.

to the ruthless devastation of a neighbour's territory. "I never," he says, "sympathise with those who indulge in their anger against the men of their own blood to the length of not only depriving them of their year's harvest, when at war with them, but even of cutting down trees and destroying their buildings, and of leaving them no opportunity of repentance. Such proceedings seem to me rank folly. For while they imagine they are dismaying the enemy by the devastation of their territory, and the deprivation of their future as well as of their present means of getting the necessities of life, they are all the while exasperating the men, and converting an isolated ebullition of anger into a lasting hatred."

The most important principle in the modern theory of war is the distinction between combatants and non-combatants. Jurists regard such written laws as those passed by the Hague Convention as binding, whereas military authorities are disposed to attach chief importance to the practice followed by armies in the field. The Prussian General Staff speak of the agreements of the Hague Convention as "in fundamental contradiction with the nature and object of war," and even in regard to those "usages" which they admit, they hold that they are subject to the exigencies of "necessity." Their view is that of Clausewitz, who says: "Laws are self-imposed restrictions, almost imperceptible and hardly worth mentioning, termed usages of war." Now philanthropists may easily imagine that there is a skilful method of disarming and overcoming an enemy without causing great bloodshed, and that this is the proper tendency of the art of war. However plausible this may appear, still it is an error which must be extirpated, for in such dangerous things as war the errors which proceed from the spirit of benevolence are the worst. . . . To introduce into the philosophy of war itself a principle of

moderation would be an absurdity. . . . War is an act of violence which in its application has no bounds." Or, as the German War Book puts it, there are certain severities which are "very frequently the only true humanity." This is practically an abandonment of laws of war altogether.

The Hague Conventions presuppose that belligerents will observe the principles of the law of nations, as resulting from the usages established among civilised peoples, the laws of humanity, and the exigencies of the public conscience. As to these unwritten rules, the English representative urged that regulations should be made as explicit as possible, while the spokesman of Germany urged that they should be made as indefinite as possible.

The combatant, according to the Hague Conventions, is entitled to "quarter" if he throws down his arms, while this privilege cannot be accorded to the non-combatant if he acts as a combatant. The regular army and the auxiliary forces are admittedly belligerents, and these include Territorials, Militia, Reservists and a Civil Guard. Even the Prussian War Book admits that "smaller and less powerful States" are authorised to employ the whole population in defence of their Fatherland, and the Hague regulations provide that "the population of a territory not yet occupied who on the approach of the enemy spontaneously take up arms in order to resist the invaders, without having had time to organise themselves, shall be regarded as belligerents provided they carry their arms openly and respect the laws and customs of war." This regulation, however, is disputed in the Prussian War Book, which insists that there must be a regular organisation by the people, however sudden the invasion.

The Hague Regulations for Land Warfare declare that the right of belligerents to adopt means of injuring the

enemy is not unlimited. The object of war is to overcome the enemy, but there are certain rules which have been dictated by the necessity of maintaining discipline, by humanity, and by regard for the public opinion of the civilised world. When an army invades an enemy's territory it is customary for the commander to issue a proclamation, announcing that so long as private citizens remain neutral, and make no hostile attempt against the troops, they will be spared as far as possible the horrors of war, and will not be molested in their person or property. It is the recognised duty of the commander of hostile forces to protect the civilian population, and to purchase the provisions required for his troops.

Certain rules are laid down in the Hague Regulations for the conduct of sieges. Bombardment of any kind, including dropping of shells from balloons and airships, is forbidden if the town, village or dwelling or building is undefended, but no Great European Power except Great Britain has ratified the Declaration. Care is to be taken not to injure the buildings devoted to religion, art, science, and charity, historic monuments, and hospitals, provided they are not used for military purposes. The pillage of a town or place even when taken by assault is prohibited.

The Proclamation issued by General von Kummer at Metz on October 30th, 1870, gives an example of the powers of an occupant of foreign territory :

“ If I encounter disobedience or resistance, I shall act with all severity and according to the laws of war. Whoever shall place in danger the German troops, or shall cause prejudice by perfidy, will be brought before a council of war ; whoever shall act as a spy to the French troops or shall lodge or give them assistance ; whoever shows the road to French troops voluntarily ; whoever shall kill or wound the German troops or the persons belonging

to their suite ; whoever shall destroy the canals, railways or telegraph wires ; whoever shall render the roads impracticable ; whoever shall burn provisions or munitions of war ; and lastly, whoever shall take up arms against the German troops, will be punished with death. It is also declared that (1) all houses from which or from out of which any one commits acts of hostilities towards the German troops will be used as barracks ; (2) not more than ten persons shall be allowed to assemble in the streets or public houses ; (3) the inhabitants must deliver up all arms by 4 o'clock on Monday, October 31, at the Palais, rue de la Princesse ; (4) all windows are to be lighted up during the night in case of alarm."

Martial law was described by the Duke of Wellington as "neither more nor less than the will of the General who commands an army." It implies the suspension of ordinary law and the substitution of military rule and force. The services of the inhabitants of occupied territory may be requisitioned, if they do not involve their taking part in military occupations against their own country. Germany, Austria, Japan and Russia have all compelled men under threat of death to give information of military value ; but it is held by Dr. Higgins that this practice is "contrary to the whole spirit of the modern development of the laws of war," and "should disappear from all the military manuals of civilised States."

There are three articles in the Hague Regulations which either prohibit pillage or forbid the confiscation of private property. But guns, ammunition, and all kinds of war material are always taken from the inhabitants, and heavy penalties are inflicted for the concealment of arms. Horses, motor-cars, carriages, and pleasure steamers, and so forth, may be seized, and a receipt given as a proof of the claim to compensation. Public buildings devoted to religion,

education, art, science and the like, are to be treated as private property. Royal palaces are therefore to be exempt from confiscation or injury, as well as picture galleries, public libraries, museums and their contents.

By the Geneva Convention of 1906 for the first time International recognition was given to the work of the Red Cross Societies, provided they are under due control. "But," says Dr. Higgins, "both in naval and land warfare the private citizen is still subject to great dangers and losses. Forced labour may be requisitioned, private property of every description may be commandeered for the use of the invading army, foodstuffs of all sorts compulsorily purchased, and several of the most powerful of the military States still insist on retaining the right—one of the most objectionable of the usages of war—of forcing non-combatant individuals to act as guides to the army of invasion."

From the nature of the case sea-warfare differs from land warfare. In the Hague Conventions immunities are accorded to hospital ships, corresponding to those granted to medical corps on land. There is, however, one unfortunate provision, which Dr. Baty properly describes as a "shocking article."¹ A neutral not under belligerent control may be compelled to give back to the enemy any "wounded sick or shipwrecked" who may be on board. Great Britain, indeed, understands this article as applying solely to rescue "during or after a naval engagement"; but this leaves it doubtful what is to be done if a ship is wrecked long after a naval engagement. Cases have occurred when the provisions of this article were disregarded. Lord John Russell refused to give up to the Federals the sailors rescued when the *Alabama* was sunk, and similarly the British, French and Italian commanders retained the

¹ *War : its Conduct and Legal Results*, p. 213.

Russian soldiers they had rescued when the Russian squadron was destroyed.

There is an article in the Hague Convention prohibiting the bombardment of towns and buildings which are not "defended." Apparently the presence of a warship does not bring a town under the head of a "defended" place, because there is a special provision giving permission to fire on a ship of war in a harbour. On the other hand, a town defended by contact-mines seems to come under the head of a "defended" place. The use of automatic anchored mines which do not become harmless on breaking loose is prohibited. It was proposed to prohibit mine-fields altogether, except at the coast, but the view of Germany prevailed, and mines may be laid on the high seas; nor can neutrals complain of their existence, though in the present war they might properly form a League to clear the seas of all mines, British or German.

The institution of what are called "military areas" is quite recent. In the Russo-Japanese War of 1904-5 war correspondents who chartered a vessel fitted with wireless telegraphy were warned that if they ventured within the area of Russian operations, they would be treated as spies. The Institute of International Law in 1906 declared that the transmission of wireless messages within the sphere of action of military operations was a transgression of the rights of neutrals, and the British Admiralty has spoken of the North Sea as "a military area"; which probably means only that the presence of neutrals in this area will be regarded as highly suspicious, and will render them more than usually liable to charges of contraband trading or of un-neutral service.

Blockade is an extension of siege, and is based on the principle that a neutral cannot be allowed to nullify the effects of siege by throwing in provisions or other commodi-

ties to a beleaguered place. The object is to cut off export trade and the import of raw materials. The usual penalty for such acts is confiscation of ship and cargo. No permission can be given to vessels of a particular nation, or carrying a particular kind of cargo, since this would naturally give rise to the idea that the blockade was suspended.

The State, as we have endeavoured to show, exists for the purpose of providing the external conditions under which all the citizens may have an opportunity of developing the best that is in them, and the success with which this aim is achieved is a test of the perfection of a community. It is the expression of the common will, which must not be identified with the will of the majority, or even with the will of all ; nor is it maintained simply by the regulations of government, but by all the organisations through which the will of society is expressed. This destroys the force of the contention that other forms of organisation are independent and co-ordinate in authority. The ultimate authority is the State, which adjusts the relations of the subordinate groups, and secures that the rights of all members of the community shall be provided for. There is nothing in this conception to prevent the community from aiming at the good of humanity. If this is not admitted, we have a theory of the State such as has unfortunately dictated the policy of the dominant power in Germany. That policy is based upon the false principle that militarism is essential to the spread of German civilisation, and German civilisation to the civilisation of the world. The influence of this idea is shown not merely in the economic principles of Germany, but even in the efforts of the governing powers to regulate the whole system of education in the selfish interest of one nation, and to despise all that we mean by a liberal education. The object of education on

this view is to generate intensely loyal citizens whose ideas are in line with those of the ruling powers. "Wir sollen," said the Kaiser on one occasion, "junge nationale Deutsche erziehen und nicht junge Griechen und Roemer"—as if the object of classical education was to convert the modern youth into a Greek or Roman, not to familiarise him with the fountain-heads of modern civilisation. To this object the whole of the elementary education of Germany is subordinated. Fortunately this very inadequate conception of education is not universally held, and indeed the higher education of Germany, much to the disgust of the Pan-Germanists, is still largely influenced by the truer ideas of an earlier time. This gives us some ground for hope that, Germany having been defeated in this war, the country will awaken to the idea that a policy of force and intrigue is sure to defeat itself in the long run. We cannot disguise from ourselves, however, that a very great change of mind must take place before there is much hope that a League of Nations which includes the Central Powers can be formed. As we have argued, this comprehensive scheme is essential to the success of the League. If the Central Powers are excluded, and forced back upon themselves, we must look for a continuance of the present discredited idea of a Balance of Power in a new form. There will be a high probability of renewed war, intensified by the building of armaments more destructive than ever, the maintenance of powerful armies and fleets, and a diversion of the energies of the nations to the task of preserving their independence.

One important task of a League of Nations would be to provide for the fair treatment and the gradual development of backward communities. No object can be more worthy of consideration by statesmen, and there seems no good reason why those communities should not be brought under the supervision of the League. If some such arrangement

is not made, we shall have a continuance of the system of exploitation with its enormous evils, and the danger that an ambitious and unscrupulous power should employ natives in its battles. This is one of the dangers that perpetually confront us in South Africa. Even from the point of view of their own interest it therefore seems necessary to provide against such a contingency by an agreement of civilised nations. From every point of view it is the duty of Christian men to further by all means in their power a conception of the duty of civilised nations to unite for the promotion of the good of humanity, abandoning once for all the notion that only their own selfish interest is the object of statesmanship.

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